Supreme Court, U.S.
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No.

In The

Supreme Court of the United States

Joseph W. Southern, Dr.
Father of Sean S. Southern
and Michael J. Southern — *Petitioners*

v.

Colin L. Powell
Secretary of State — *Respondent*

On Petition For Writ of Certiorari
To The United States Court of Appeals
For The District of Columbia Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether the appeal court erred that an American father, with a Florida custody order for his two sons, did not satisfy the heavy burden necessary, in accordance with Taxpayers Watchdog, Inc, v. Stanley, 819 F. 2d 294, 260, 260 U.S. App. D.C. 334, to compel the Secretary to issue passports for two American children, so that they can leave Southeast Asia and Thailand, an area currently experiencing terrorist attacks, such as suicide operations, kidnappings, and bombings, for the safety of their own country, the United States of America.

2. Whether the appeal court erred that Haig v. Agee, 453 U.S. 280, 299 (1981) held, that the discretionary authority granted the Secretary to issue passports, also allowed the Secretary to ignore the full faith and credit clause of Article IV Section 1 of the U.S. Constitution, and not recognize a judicial decision of the State of Florida, that granted custody of his two sons to the Petitioner., and therefore not satisfy the heavy burden necessary to compel the Secretary to issue passports for the two American children, Sean and Michael Southern.

3. Whether the appeal court erred that the right to the relief the Petitioner is seeking, is the right to be recognized as the parent with sole custody in accordance with Final Judgment of Dissolution of Marriage, Eleventh Judicial Circuit, Dade County Florida, November 5, 1996.

4. Whether the appeal court erred that the issuance of passports, as so authorized by the Secretary, is the only means that Sean and Michael Southern have of leaving Southeast Asia and Thailand, for the safety of their own country, the United States of America.

5. Whether the appeal court erred that by granting the motion for summary affirmance to the Appellee, the right of Sean and Michael Southern to reside in the United States were violated in accordance with 26 U.S.C. § 1343.

TABLE OF CONTENTS

Page

1. Citations of Court Orders.....1

2. Basis for Jurisdiction.....2

3. The Constitutional Provisions, Treaty, Statutes and Regulations Involved.....3-5

4. Statement of Facts.....6-8

5. Argument for Allowance of Writ.....9-11

TABLE OF CITED AUTHORITIES

1. Final Judgment of Dissolution of Marriage Eleventh Judicial Circuit, Dade County Florida, November 5, 1996 Appendix, pages A- 1 to A- 3.

2. Haig v. Agee, 453 U.S. 280, 299 (1981);

3. Official Florida Statutes, Title VI, Civil Practice and Procedure, Chapter 61, Dissolution of Marriage; Support: Custody, 1993. Appendix, pages A-40 to A-54.

4. Order to Pick-Up Minor Children Eleventh Judicial Circuit, Dade County Florida, December 28, 2001 Appendix, page A- to A-8.

5. Order Directing Polk County School Board to Correct Records, Eleventh Judicial Circuit, Dade County, Florida, January 29, 2003, Appendix, pages A- 9 to A- 12.

6. Order Granting Defendant's Motion to Dismiss, Southern v. Powell Civil Action: No 02-1618 (JR) U. S. District Court for the District of Columbia, May 30, 2003 Appendix, pages A- 19 to A- 22..

7. Order Granting Motion for Summary Affirmance, U.S. Court of Appeals, District of Columbia Circuit, March 2, 2004. Appendix, pages A- 25 to A-26.

8. Order Denying Appellants Petition for Rehearing En Banc, U.S. Court of Appeals, District of Columbia Circuit, June 23, 2004. Appendix, pages A-23.

9. Passports 22 C.F. R. § 51.27 Minors (d) (3):

TABLE OF CITED AUTHORITIES

10. Treaty of Amity and Economic Relations Between the United States of America And Thailand, Entered into Force June 8, 1968. Appendix, pages A-29 to A-35.

11. U.S. Constitution, Article 4, Section 1:

12. U.S. Constitution, Article 6, Section 2:

13. U.S. Constitution, 10th Amendment

14. 28 U.S.C. § 1652. State laws as rules of decision.

15. 28 U.S.C. § 1738. State and Territorial statutes and judicial proceedings; full faith and credit.

16. 28 U.S.C. § 1738. State and Territorial statutes and judicial proceedings; full faith and credit.

17. 28 U.S.C. § 1738A. Full faith and credit given to child custody determinations.

18. 28 U.S.C. § 1331. Federal question.

19. 28 U.S.C. § 1343. Civil rights and elective franchise

20. 28 U.S.C. § 1361. Action to compel an officer of the United States to perform his duty.

APPENDIX TABLE OF CONTENTS

Page

Final Judgment of Dissolution of Marriage
Eleventh Judicial Circuit, Dade County
Florida, November 5, 1996..... .....A-1 to A-3

Order to Pick-Up Minor Children
Eleventh Judicial Circuit, Dade County
Florida, December 28, 2001.....A-4 to A-8

Order Directing Polk County School
Board to Correct Records, Eleventh
Judicial Circuit, Dade County,
Florida, January 29, 2003.....A-9 to A-12

Cable, Secstate, 78497, Department
of State, Secretary of State, May 4, 2001..... A-13 to A-15

Cable, Secstate, 32790, Department
of State, Secretary of State,
February 23, 2000..... A-16 to A-17

Order Granting Defendant's Motion
to Dismiss, Southern v. Powell
Civil Action: No 02-1618 (JR)
U. S. District Court for the
District of Columbia, May 30, 2003..... .....A-18

Memorandum, Defendant's Motion
to Dismiss, Southern v. Powell
Civil Action: No 02-1618 (JR)
U. S. District Court for the
District of Columbia, May 30, 2003.....A-19 to A-22

APPENDIX TABLE OF CONTENTS

Page

Order Denying Appellants Petition for Rehearing En Banc, U.S. Court of Appeals, District of Columbia Circuit, June 23, 2004.....A-23 to A-24

Order Granting Motion for Summary Affirmance, U.S. Court of Appeals, District of Columbia Circuit, March 2, 2004.....A-25 to A-26

Treaty of Amity and Economic Relations Between the United States of America And Thailand, Entered into Force June 8, 1968.....A-29 to A-35

Form, English-Thai, Appeal to the Immigration Commission, Thai Immigration.....A-36 to A-39

Official Florida Statutes, Title VI, Civil Practice and Procedure, Chapter 61, Dissolution of Marriage; Support: Custody, 1993.....A-40 to A-54

Letter to Mr. Thomas Furey, Consul General, U.S. Embassy Bangkok, March 23, 1995, from Dr. Joseph Southern, Re: Annual Extension Of Non-Immigrant Visa.....A-55 to A-61

APPENDIX TABLE OF CONTENTS

Page

Letter to Mr. Chris Richards,
American Services Section, U.S. Embassy,
Bangkok, May 3, 1995, from
Dr. Joseph Southern, Re: Request for
Divorce by Orawan Southern.....62-A to A-65

Letter to Mr. Chris Richards,
American Services Section, U.S.
Embassy, Bangkok, May 26, 1995,
from Dr. Joseph Southern,
Re: My Letter to You Dated
May 3, 1995.....A-66 to A-67

Letter from Aileen Southern
To the Thai Court Expressing Her
Opposition to Being Forced to
Return to Thailand, June 15, 1998.....A-68 to A-71

Memo to Charles Bennett, Consul
and Second Secretary, U.S.
Embassy, Bangkok from Dr.
Joseph Southern, April 28, 1998
Re: Personal Letter From Me to
My Oldest Daughter in America,
Submitted as Evidence by
Plaintiff to Family Court.....A-72 to A-75

APPENDIX TABLE OF CONTENTS

Page

Battery C Scores 133, Sea Tiger
1st Marine Division Newspaper
Danang, Republic of Vietnam,
Battery C Was Under the
Command of 1st Lt. Joseph
Southern of Miami, Florida.....A-76

Fax to Amb. William
H. Itoh, U.S. Embassy, Bangkok,
November 10, 1996, From Dr. Joseph
Southern Re: Fax Copy of Florida .....A-77 to A-78
Custody Order

Fax to William Wharton, Office
Of Passport Policy and Advisory
Services, Department of State,
Washington, D.C. March 21, 1997
From Dr. Joseph Southern Re: Faxed
Copy of Final Judgment Of Dissolution
of Dissolution of Marriage.....A-79 to A-80

Fax to William Wharton, Office
Of Passport Policy and Advisory
Services, Department of State,
Washington, D.C. July 31, 1997,
From Dr. Joseph Southern Re: Requesting
Acknowledgment of Fax Sent to Him
On March 21, 1997 Re: Faxed
Copy of Final Judgment Of Dissolution
of Dissolution of Marriage of
March 21, 1997.....A- 81 to A-82

APPENDIX TABLE OF CONTENTS

Page

E-mail of July 10, 2000
from Louis B. Harris,
Department of State, Acknowledging
Receipt of Copy of Final Judgment
Of Dissolution of Marriage on
March 24, 1997 That Was Faxed by
Dr. Joseph Southern on March 21,1997..... A-83 to A-84

E-mail of March 15, 2000
from Jocelyn M. Sindelar
Citizen Services Specialist,
Office of Children's Issues,
Department of State Acknowledging
Having Florida Judgment on File.....A-85

Memo, January 14, 2000, To Paul
Mayer, With Enclosed English
Translation of July 30, 1999
Thai Court Response to
Dr. Joseph Southern's Motion
For Visitation With His Children.....A-86 to A-90

E-mail , August 8, 2000 to
Leila Ben Debba of NCMEC
From Dr. Joseph Southern
Requesting Assistance in
Locating His Daughter
Catherine in the United States.....A-91 to A-93

E-mail, August 16, 2000
From Lila Ben Debba of
NCMEC to Dr. Joseph
Southern.....A-94

APPENDIX TABLE OF CONTENTS

Page

E-mail, August 17, 2000
From Leila Ben Debba of
NCMEC to Dr. Joseph
Southern, Re: Assignment
Two Project Alert Agents
To Locate Catherine.....A-95

Cable, August 16, 2000
From Jocelyn M. Sindelar
To Paul O. Mayer cc:
To Dr. Joseph Southern
Re: NCMEC Efforts in
Locating Catherine in
The United States.....A-96 to A-97

Fax to Legal Attaché, U.S.
Embassy, the Local Office of
The FBI To Assist Locating
Catherine by Entering Her
Name in NCIC Computer
As a Missing Child.....A-98

E-mail, August 14, 2000, to
Lila Ben Debba of NCMEC
Re: Refusal of FBI at the U.S.
Embassy To Assist in Locating
Catherine in the United States.....A-99 to A-101

E-mail, January 22, 2003, To Zoila I.
Miranda, Miami-Dade Court
from Dr. Joseph Southern
Re: Court Order to Polk County
System Correcting Catherine's Name.....A-102 to A-104

APPENDIX TABLE OF CONTENTS

Page

Certified Copy of a Cable
August 4, 2000 From Ms. Ann
B. McGahuey to Paul O. Mayer
Re: Dr. Joseph Southern
Agreeing to a Limited Duration
Passport for Catherine's Direct
Return to the United States.....A-106

E-mail. July 16, 2003 to
Ms. Patty Kennedy From Dr.
Joseph Southern Re: Catherine
Being Sent Back to Thailand.....A-107 to A-109

E-mail, January 27, 2003, to
Laurie Weinstein, AUSA From
Dr. Joseph Southern
Re: State Cable #271482, Child
Custody: Honoring of U.S. Foreign
Court Orders in Passport Cases.....A-110 to A-111

Cable, February 16, 2001,
From Jocelyn M. Sindelar
To Paul O. Mayer cc:
Dr. Joseph Southern
Re: Dr. Southern-Passport
Apps For Sean and Michael.....A-112

Cable, March 1, 2001,
From Jocelyn M. Sindelar
To Paul O. Mayer cc:
Dr. Joseph Southern
Re: Passport Issues for the
Southern Children .....A-113 to A-114

APPENDIX TABLE OF CONTENTS

Page

Fax, February 28, 2001
To Secretary Colin Powell
From Dr. Joseph Southern
Re: Passport Issuance for
My Sons Sean and Michael.....A-115 to A-117

Fax, March 17, 2001 To
Secretary Colin Powell From
Dr. Joseph Southern
Re: Ltr To Dr. Joseph
Southern From Mary
B. Marshall, Children's Issues.....A-118 to A-124

Fax, March 29, 2001 To
Secretary Colin Powell From
Dr. Joseph Southern Re:
Issuance of US Passports
For Sean and Michael
Southern.....A-125 to A-127

Fax, April 23, 2001 To
Secretary Colin Powell
From Dr. Joseph Southern
Issuance of US Passports
For Sean and Michael
Southern Re: Ltr Patrick
H. Hegarty, March 30, 2001.....A-128 to A-135

International Herald Tribune
Editorial, Saturday-Sunday
July 29-30, 2000, A Father's
Ordeal, The Washington Post.....A-136 to A-137

APPENDIX TABLE OF CONTENTS

Page

E-mail, November 6, 2002,
To Ms. Daria Zane, AUSA,
Request for Enlargement of
Time for Laurie Weinstein,
Drugging of Dr. Joseph Southern
In his Apartment.....A-138 to A-139

Fax, December 13, 2002,
To Mr. Roderick Gonzalez
U.S. Embassy, Bangkok,
From Dr. Joseph Southern
Re: Struck by Van While
Walking on a Sidewalk .....A-140 to A-141

E-mail, December 13, 2002
To Ms. Laurie Weinstein,
From Dr. Joseph Southern
Re: Struck by Van While
Walking on a Sidewalk .....A-142 to A-143

E-mail, December 13, 2002
From Ms. Laurie Weinstein
To Dr. Joseph Southern
Re: Struck by Van While
Walking on a Sidewalk.....A-144

E-mail, June 26, 2003
To Ms. Patty Kennedy
From Dr. Joseph Southern
Another Drugging Incident.....A-145 to A-147

APPENDIX TABLE OF CONTENTS

Page

E-mail, September 10, 2002,
From ACS, U.S. Embassy
To Dr. Joseph Southern
Re: Security Notice and Worldwide
Caution.....A-148 to A-151

E-mail, September 12, 2002,
From ACS, U.S. Embassy
To Dr. Joseph Southern
Re: Security Recommendations.....A-152 to A-154

E-mail, September 13, 2004,
From ACS, U.S. Embassy
To Dr. Joseph Southern Re:
Public Announcement Worldwide
Caution.....A-155 to A-156

Trial of JI Suspects, November
29, 2003, The Nation, Bangkok
Thailand.....A-157 to A-159

Key Terrorists Passing Through
Kingdom, November 26, 2003
The Nation, Bangkok, Thailand.....A-160 to A-162

War on Terrorism, Hijackers Were
In Bangkok, December 13, 2001
Bangkok Post.....A-163 to A-164

CITATIONS OF COURT ORDERS

1. Final Judgment of Dissolution of Marriage Eleventh Judicial Circuit, Dade County Florida, November 5, 1996

2. Order to Pick-Up Minor Children Eleventh Judicial Circuit, Dade County Florida, December 28, 2001

3. Order Directing Polk County School Board to Correct Records, Eleventh Judicial Circuit, Dade County, Florida, January 29, 2003

4. Order Granting Defendant's Motion to Dismiss, Southern v. Powell Civil Action: No 02-1618 (JR) U. S. District Court for the District of Columbia, May 30, 2003

5. Order Granting Motion for Summary Affirmance, U.S. Court of Appeals, District of Columbia Circuit, March 2, 2004

6. Order Denying Appellants Petition for Rehearing En Banc, U.S. Court of Appeals, District of Columbia Circuit, June 23, 2004

BASIS FOR JURISDICTION

The order sought to be reviewed is Order Granting Motion for Summary Affirmance, U.S. Court of Appeals, District of Columbia Circuit, March 2, 2004.

A petition for a for Rehearing En Banc, by the Petitioner was denied by the U.S. Court of Appeals, District of Columbia Circuit, on June 23, 2004.

The statutory provision that confers jurisdiction on this Court to review this writ of certiorari is U.S.C. 28 § 1254 (1).

THE CONSTITUTIONAL PROVISIONS, TREATY, STATUTES, AND REGULATIONS INVOLVED

1. **Passports 22 C.F. R. § 51.27 Minors (d) (3):** The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport may be issued.

2. **U.S. Constitution, Article 6, Section 2:** This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

3. **U.S. Constitution, 10th Amendment:** The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

4. **U.S. Constitution, Article 4, Section 1**: Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

5. **Official Florida Statutes, Title VI, Civil Practice and Procedure, Chapter 61, Dissolution of Marriage; Support: Custody, 1993.** Appendix, pages A-40 to A-54.

6. **28 U.S.C. § 1652.** State laws as rules of decision. The laws of the several states, where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide , shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply.

THE CONSTITUTIONAL PROVISIONS, TREATY, STATUTES, AND REGULATIONS INVOLVED

7. **28 U.S.C. § 1738. State and Territorial statutes and judicial proceedings; full faith and credit**. The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof , shall be authenticated by affixing the seal of such State, Territory, or Possession thereto.

8. **28 U.S.C. § 1738. State and Territorial statutes and judicial proceedings; full faith and credit**. Cont. The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a real seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated shall have the same full faith and credit in every court within the United States and its territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

9. **28 U.S.C. § 1738A. Full faith and credit given to child custody determinations.** (a) The appropriate authorities of every state shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State. (f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—(1) it has jurisdiction to make a child custody determination: and (2)

the court of the other State no longer has jurisdiction, or it has declined to exercise to modify such determination.

10. **28 U.S.C. § 1331. Federal question.** The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

11. **28 U.S.C. § 1343. Civil rights and elective franchise** (3) the district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person (3) To redress the deprivation, under color of any State law, statute, ordinance regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or all persons within the jurisdiction of the United States.

12. **28 U.S.C. § 1361. Action to compel an officer of the United States to perform his duty.** The district courts shall original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff.

13. **Treaty of Amity and Economic Relations Between the United States of America And Thailand, Entered into Force June 8, 1968.** Appendix, pages A-29 to A-35.

STATEMENT OF FACTS

Florida Judgment: On November 5, 1996 the Petitioner received custody of his four children of the marriage, Catherine, Sean, Michael, and Aileen Southern. [Appendix, pages A-1 to A-3]

At the time Aileen resided in Dade County Florida attending a Catholic middle school.

On August 4, 2000 Catherine is sent from Thailand to Florida to attend school in Winter Haven, Florida, to reside with the ex-wife's sister and husband, under an assumed Thai name. [Appendix, pages A-91 to 101, 106]

The Petitioner received an order to pick-up Catherine so as to place her with his brother in Gainesville, Florida. Earlier his brother agreed to accept Catherine, but then changes his mind and declines to accept Catherine, leaving her with the ex-wife's sister and husband. [Appendix, pages A-4 to A-8].

The Petitioner then has Catherine's school records corrected to Catherine Orawan Southern under a Florida court order. [Appendix,, pages A-9 to A-12, A-102-104].

Catherine is returned to Thailand from Florida. [Appendix, pages A-107 to A-109].

The Petitioner submits the Florida judgment to the Department of State, Washington, D.C. on March 21, 1997, and the U.S. Embassy on November 10, 1996. [Appendix, pages A-81 to A-82, A-77 to A-78].

Continued requests to the Department of State to acknowledge receipt of the Florida judgment were not met until July 10, 2000. [Appendix, pages A-81, A-82, A-83, A-84, A-85].

Attempts by the Petitioner to have the Department of State acknowledge that the Petitioner had custody of his children in Thailand and issue passports, in accordance with the Florida judgment appear to vacillate from yes to no, between the Department of State in Washington and the U.S. Embassy in Bangkok [Appendix, pages A-112 to A-135].

While remaining in Thailand to be near his children he is subject attacks on his personal safety. [Appendix, pages A-138, A-139, A-140, A-141, A-142, A-143, A-144, A-145 to A-147].

Florida Judgment and Thai Court: The Florida judgment is submitted to the Thai court in February 20, 1997 for enforcement in Thailand. On December 4, 1998 instead it issues its own order giving custody of the Petitioners three children in Thailand, Catherine, Sean, and Michael from the marriage to the ex-wife. Evidence to the Thai court about the Petitioners military service in the Marine Corps in Vietnam is submitted by the ex-wife's Thai attorney. [Appendix pages A-72 to A-76].

U.S. State Department and the Thai Judgement: The State Department and the U.S. Embassy accept the Thai judgment and refuses to accept the Florida judgment. [Appendix, pages A-13 to A-16].

Florida Judgment and U.S. Courts: The Petitioner files suit in the United States District, Southern District of Florida on April 15, 2002. Subsequently transferred to the United States District Court for the District of Columbia.

Terrorist Attacks, Southeast Asia and Thailand: After September 11, 2001, the Petitioner has received e-mails from the American Citizens Services Unit of the U.S. Embassy, Bangkok, advising him and other Americans in Thailand the

need to be on the alert for terrorist attacks. [Appendix, pages A-148 –A-156].

Also the local Thai English daily newspapers have reported on the arrests, activities, and prosecution of alleged terrorists operating within Thailand. [Appendix, pages A-157 to A-164].

Basis for Federal Jurisdiction in the Court of First Instance:

28 U.S.C. § 1361. Action to compel an officer of the United States to perform his duty. The district courts shall original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff.

ARGUMENT FOR AN ALLOWANCE OF A WRIT

I. The appeal court erred in its decision when it stated the Petitioner failed to establish the merits of his case so that the Secretary is compelled to authorize passports for his two sons.

Both sons and the Petitioner father are currently in Thailand and Southeast Asia, an area of the world that is experiencing terrorists attacks such as suicide operations, kidnappings, and bombings.

In the latest PUBLIC ANNOUNCEMENT-WORLDWIDE CAUTION of September 13, 2004 from the U.S. Embassy in Bangkok:

"The Department of State remains concerned by indications that al-Qaida and affiliated groups continue to prepare to strike U.S. interests abroad."

This announcement further states "Terrorist actions may include, but are not limited to, suicide operations, assassinations, hijackings, bombings or kidnappings."

And further adding "Terrorists do not distinguish between official and civilian targets."

This announcement from the U.S. Embassy in Bangkok furthermore states: "U.S. citizens are reminded to maintain a high level of vigilance and to take appropriate steps to increase their security awareness."

Also is stated in this same announcement: "The Department of State is deeply concerned about the continuing threat of terrorist attacks against U.S. citizens."

The Petitioner has received a number of these e-mail announcements expressing the same concern from the Department of State, yet the Petitioner and his sons still remain siting ducks out here because his sons cannot obtain passports that will enable them to return to the safety of their own country. The Secretary can't have it both ways, expressing deep concerns about the continuing threats against U.S. Citizens and yet not being compelled to authorize issuance of passports for Sean and Michael Southern that will allow them to leave these "threats of terrorist attacks" (5, 6, 7).

II. The appeal court erred in its decision when it stated that Haig v. Agee, 453 U.S. 280, 299 (1981) held that the discretionary authority granted the Secretary to issue passports, also allowed the Secretary to ignore the full faith and credit clause of Article IV Section 1 of the U.S. Constitution, and not recognize a judicial decision of the State of Florida.

Haig v. Agee never allowed that much discretion to ignore state judicial decisions, and in doing so undermine the cooperative federalism between the states and the nation. This kind of discretion is allowing the Supremacy Clause of Article 6 to run amok. The discretion allowed in Haig v. Agee only concerns national security and foreign policy, not state judicial decisions concerning custody of children. (1, 2).

III. The appeal court erred in its decision when it stated that the right to the relief the Petitioner was seeking, was not clear and indisputable.

That right was clear and not disputable. A state judicial decision to be recognized as the parent with sole custody in accordance with Final Judgment of Dissolution of Marriage, Eleventh Judicial Circuit, Dade County Florida, November 5, 1996. And thus . 28 U.S.C. § 1361 is appropriate in this case.

IV. The appeal court erred since the issuance of passports, as so authorized by the Secretary, is the only means that Sean and Michael Southern have of leaving Southeast Asia and Thailand, for the safety of their own country, the United States of America.

The only means that Sean and Michael Southern can escape the threat of terrorist attacks is by the Secretary being compelled in accordance with 28 U.S.C. § 1361 to authorize issuance of the passports.

V. The appeal court erred that by granting the motion for summary affirmance to the Respondent, the right of Sean and Michael Southern to reside in the United States were violated in accordance with 26 U.S.C. § 1343.

The Secretary has never been authorized by any legislation concerning passports to violate the civil rights of two minor American children by denying them the right to reside in their own country.

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN
AND FOR DADE COUNTY, FLORIDA

IN RE: THE MARRIAGE OF FAMILY DIVISION

JOSEPH SOUTHERN CASE NO. 96-19126 FC 16

Petitioner/Husband,

And

ORAWAN S. SOUTHERN **FINAL JUDGMENT OF DISSOLUTION OF MARRIAGE**

Respondent/Wife

_____/

THIS CAUSE came to be heard before the court on this 5th day of November, 1996, upon the Husband's Petition for Dissolution of Marriage, due notice having been given, and the court being fully advised in the premises, it is hereby:

ORDERED, DECREED, AND ADJUDGED THAT:

1. The marriage between JOSEPH W. SOUTHERN and ORAWAN S. SOUTHERN, is found to be irretrievably broken, and the said marriage is hereby dissolved.

2. The parties have no joint assets or joint debts. All property assets now in the possession of the Husband and the Wife shall remain so, and each shall be responsible of his or own debts.

3. The Husband shall have primary residential custody of the four children of the marriage, namely CATHERINE SOUTHERN, SUTEERA AILEEN SOUTHERN, SEAN SOUTHERN, MICHAEL JOSEPH SOUTHERN, and sole parental responsibility, with the right to have the children reside in the United States, should he determine it to be in the best interest of the children. The Court invokes jurisdiction pursuant to Florida statute section 61.1308(d).

(STAMP)
A TRUE COPY
CERTIFICATION ON
LAST PAGE
HARVEY RUVIN

SOUTHERN VS. SOUTHERN CASE NO. 96-19126 FC 16

4. The Wife shall have liberal and reasonable visitation rights pursuant to the Dade County guidelines. As the wife is currently unemployed, her child support obligation to the husband shall be set at one ($1) per month. The Husband shall be required to provide health insurance for the children.

5. Each party shall be responsible for his or her own attorney fees and costs.

6. The Court shall retain jurisdiction for enforcement of the Final Judgment, and for all other purposes.

DONE AND ORDERED in chambers at Miami, Dade County, Florida, this 5 day of November, 1996.

"s/ MAYNARD A. GROSS".
MAYNARD A. GROSS
CIRCUIT COURT JUDGE

Copies furnished:
Fred E. Glickman, Esq.
Orawan S. Southern

(STAMP)
STATE OF FLORIDA, COUNTY OF DADE
I HEREBY CERTIFY that the foregoing is a true and correct copy of the original in this office NOV 5, 1996 AD 19____ (seal of clerk)
HARVEY RUVIN, CLERK, of Circuit and County Courts

Deputy Clerk "s/ illegible"

1849

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR DADE COUNTY, FLORIDA

Case No.: 96-19126 FC 16
Division: FAMILY

Dr. Joseph W. Southern
Petitioner,

and

Orawan S. Southern
Respondent

ORDER TO PICK-UP MINOR CHILD(REN)

An Emergency Verified Motion for Child Pick-Up Order has been filed by (x) Petitioner ( ) Respondent, alleging facts which under existing law are determined to be sufficient to authorize taking into custody the minor child(ren) named below. Based on this motion, the court makes the following findings, notices, and conclusions:

JURISDICTION

This court has jurisdiction over issues surrounding the minor child(ren) listed below based on the following:
[• **all** that apply]

X a. This court exercised and continues to exercise original jurisdiction over the minor children listed below under the Uniform Child Custody Jurisdiction Act (UCCJA), specifically, section 61.1308, Florida Statutes.

__ b. A certified out-of-state custody decree has been presented to this Court with a request for full faith and credit recognition and enforcement under the Parental Kidnapping Prevention Act, 28 U.S.C. §1738A. This court has jurisdiction to enforce this decree under UCCJA, specifically section 61.1328, Florida Statutes.

__ c. By operation of Florida law governing the primary custody rights of children born out of wedlock, this Court has jurisdiction over the child(ren) listed below because this (these) child(ren) was (were) born in the State of Florida and no prior court action involving the minor child(ren) has addressed a putative father's rights to custody or other parental rights. See sections 742.031 and 744.301, Florida Statutes.

__ d. Pursuant to the UCCJA, specifically section 61.133, Florida Statutes, this Court has jurisdiction to modify a custody decree of another state and has consulted with the Court which took initial jurisdiction over child(ren) to determine this authority.

__ e. Other_____

NOTICE OF HEARING

Because this Order to Pick-Up Minor Child(ren) has been issued without prior notice to the non-movant *{ name}* Orawan S. Southern, all parties involved parties involved in this matter are informed that they are scheduled to appear and testify at a hearing regarding this matter on *{date}*_____ at ___. M., at which time the Court will consider whether the Court should issue a further order in this case, and whether other things should be ordered, including who should pay the filing fees and costs. The hearing will be before The Honorable *{name}* _____
*at { room name/number, location, address, city}*_____

_____, Florida. If a party does not appear, this order may be continued in force, extended, or dismissed, and/or additional orders may be issued, including the imposition of court costs.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled at no cost to you, to the provision of certain assistance. Please contact
*{name}*_____
_____*{address}*_____
_____*{telephone}*_____, within 2 working days of your receipt of this order. If you are hearing or voice impaired, call TDD 1-800-955-8771. **NOTE THIS SECTION INITIALED BY THE JUDGE JLK AND DEEMED N/A (non-applicable).**

ORDER

This court **ORDERS AND DIRECTS** any and all sheriffs of the State of Florida (or any other authorized law enforcement officer in this state or in any other state) to immediately take into custody the minor (child(ren) identified below from anyone who has possession and:

X 1. **Place the minor child(ren) in the physical custody of** *{name}* Joseph W. Southern *{social security No.}* _____ **, who (x) may ( ) may not remove the minor child(ren) from the jurisdiction of this Court.**

OR

__ 2. **Accompany the minor child(ren) to the undersigned judge, if the minor child(ren) is (are) picked up during court hours, for immediate hearing on the issue of custody.** It is the intention of this Court that the nonmoving party, minor (child(ren), and movant appear immediately upon service of this order before the

undersigned judge, if available, or duty judge to conduct a hearing as to which party is entitled to lawful custody of the minor child(ren) at issue. It is not the intention of the court to turn over the child(ren) to the movant on an ex parte basis. Neither party should be permitted to remove the child(ren) from the jurisdiction of this court pending a hearing. If unable to accomplish the above, the sheriff/officer shall take the child(ren) into custody and place them with the Department of Children and Family Services of the State of Florida pending an expedited hearing herein.

OR

__ 3. **Place the minor child(ren) in the physical custody of** *{agency}*_____, **who shall contact the undersigned judge for an expedited hearing.** The sheriff/officer shall not delay the execution of the execution of this court order for any reason or permit the situation to arise where the nonmoving party is allowed to remove the child(ren) from the jurisdiction of this court.

4. NEITHER PARTY OR ANYONE AT THEIR DIRECTION, EXCEPT PURSUANT TO THIS ORDER, MAY REMOVE THE CHILD(REN) FROM THE JURISDICTION OF THIS COURT PENDING FURTHER HEARING. SHOULD THE NONMOVING PARTY IN ANY WAY VIOLATE THE MANDATES OF THIS ORDER IN THE PRESENCE OF THE LAW ENFORCEMENT OFFICER, THIS OFFICER IS TO IMMEDIATELY ARREST AND INCARCERATE THE OFFENDING PARTY UNTIL SUCH TIME AS THE OFFENDING PARTY MAY BE BROUGHT BEFORE THIS COURT FOR FURTHER PROCEEDINGS.

All sheriffs of the State of Florida are authorized and ORDERED to serve (and/or execute) and enforce this order in the daytime or in the nighttime and any day of the week, except as limited by this order above.

Except as limited by the above , if necessary, the sheriff/officer is authorized to take all reasonable, necessary, and appropriate measures to effectuate this order. The sheriff/officer shall not delay the execution of this order for any reason or permit the situation to arise where the child(ren) is (are) removed from the jurisdiction of this Court before execution of this order.

The minor child(ren) is (are) identified as follows:

Name	**Sex**	**Birth date**	**Race**
Catherine O. Southern	F	10/22/85	Amerasian

Physical Description
Brown hair, brown eyes 5' 3"

Current location/address of minor child(ren) or of party believed to have possession of minor child(ren):_____

_____

ORDERED on *{date}* **Dec 28, 2001**, *{time}* **11:10 a.m.**

"s/ Judith l. Kreeger"
CIRCUIT JUDGE

COPIES TO:
Petitioner (or his or her attorney)
Respondent (or his or her attorney)

IN THE CIRCUIT COURT OF THE 11th JUDICIAL COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

IN RE: THE MARIAGE OF

FAMILY DIVISION

JOSEPH SOUTHERN
Petitioner

CASE NO. 96-19126 FC 16 PJ

ORDER DIRECTING POLK COUNTY SCHOOL BOARD TO CORRECT RECORDS

And

ORAWAN S. SOUTHERN
Respondent

_____/

THIS CAUSE came on to be heard January 16, 2003 on the Petitioner's Motion of Clarification which after review by the Court, hearing sworn testimony of the Petitioner and examining the exhibits submitted, the court file and being otherwise fully advised in the premises,

the court,

FINDS, ORDERS AND ADJUDGES as follows:

1. The Court has subject matter jurisdiction and jurisdiction over the parties minor children.
2. The Respondent was noticed of the hearing but failed to contact the Court in any fashion. The Petitioner appeared telephonically as he was in Thailand where he is presently employed. He was placed under oath by Leonard Chinitiz, who is authorized to administer

same and who identified the person to whom he was administering the oath as the Petitioner.

3. The Petitioner is the primary custodial parent of the parties minor children by virtue of a Final Judgment of Dissolution of Marriage entered November 5, 1996. One of the minor's is named **Catherine Orawan Southern,** born in Bangkok, Thailand, 10/22/85.

4. The minor was sent to the State of Florida in order to continue her high school studies and entered the United States under a duly issued United States Passport issued August 4, 2000 (Passport Number 701598033). Her name appeared on that passport as Catherine Orawan Southern. This name was the same name which appears on her Certification of Report of Birth issued by the United States Department of State November 22, 1995, confirming the minor's date and place of birth and her birth name. All of the documents referred above were attached to the Petitioner's Motion and he swore to their authenticity during the telephonic hearing conducted in this cause.

5. The minor went to reside with her Uncle and Aunt, Alfred and Nuchanath Vandenbosch (the

Respondent's sister) at 2003 Helena Road, Winter Haven, FL and was enrolled in the Polk County School System under the name Mathinee Suwannachinda (Respondent's maiden name). The Aunt and Uncle were not authorized to enroll the child under such name and competent substantial evidence presented in the form of testimony from the Petitioner was that their doing so was part of a continuing plan to prevent the Petitioner from locating the minor child. If her birth name had been used, her social security number would have then become available, thereby greatly assisting the Petitioner in his efforts to locate the child who has not seen sometime in August, 2002 in Bangkok, Thailand. (Petitioner note: in fact the year 2000, not 2002).

6. That the School Board of Polk County, Florida is hereby ordered to change and all/or correct all of the records maintained by them and/or under their care, custody or control so as to reflect the name of he minor as set forth in the Certification of Report of Birth issued by the United States Department of State dated November 22, 1995, to wit: **CATHERINE ORAWAN SOUTHERN** which Certification

has been admitted into evidence in the Hearing on this cause.

DONE and ORDERED in Chambers at Miami-Dade County, Florida this 29 day of January, 2003.

"s/Maynard A. Gross"
MAYNARD A. GROSS
CIRCUIT COURT JUDGE

Copies furnished to:
Joseph W. Southern, 1508 209 Rachada 17, Rachada Pisek Rd., Bangkok, 10320, Thailand
Orawan S. Southern, 1 Soi Indramara 30, Bangkok 10400, Thailand
C. Wes Bridges, Esq., Polk Co. School Board, 1915 S. Floral Ave., Bartow, FL 33830

UNCLASSIFIED

04 MAY 2001

SECSTATE 78497

Printed by: Barbara A. Taylor 05/04/2001 08:04:28 AM

Subject: PASSPORT EXECUTION FOR AMCIT MINORS SEAN AND MICHAEL SOUTHERN (DOBS; POBS; 01/12/88 AND 06/21/89 THAILAND)

Cable Text:

UNCLAS SECSTATE 78497
CXBKKSVR:
ACTION: CONS
INFO: POL CHRON
DCM EXA AMB

(handwritten)
Original to file
Copy to Dr. JWS
Copy for ACS
Circulation

DISSEMINATION: CONS1
CHARGE: PROG

VZCZCBK0632
00 RUEHBK
DE RUEHC #8497 1240009
ZNR UUUUU ZZH
0 040008Z MAY 01
FM SECSTATE WASHDC
TO AMEMBASSY BANGKOK IMMEDIATE 4002
BT
UNCLAS STATE 078497

E.O. 12958: N/A
TAGS: CASC KOCI, TH
SUBJECT: PASPORT EXECUTION FOR AMCIT MINORS SEAN AND MICHAEL SOUTHERN (DOBS; POBS: 01/12/88 AND 06/21/89 THAILAND)

REF: 22 CFR 51.27

1. AMERICAN CITIZEN SERVICES (ACS)-BANGKOK HAS REQUESTED GUIDANCE CONCERNING ACTIONS TO TAKE IN FACILITING THE PASSPORT EXECUTION BY DR. JOSEPH SOUTHERN ON BEHALF OF HIS TWO MINOR SONS SEAN (AGE 13) AND MICHAEL (AGE 11). GUIDNACE CAN BE FOUND IN PARAGRAPH 3.
2. THE MATTER OF CUSTODY OF DR. SOUTHERN'S CHILDREN HAS BEEN IN DISPUTE WITH HIS EX-WIFE SINCE 1996; FIRST IN THAILAND, THEN IN FLORIDA, AND THEN THAILAND AGAIN. FOR OVER FIVE YEARS , DR. SOUTHERN HAS BEEN ATTEMPTING TO OBTAIN U.S. PASSPORTS FOR HIS CHILDREN WHO HAVE BEEN LIVING WITH THEIR THAI NATIONAL MOTHER IN THAILAND. THE U.S. PASSPORT APPLICATIONS SUBMITTED BY DR. SOUTHERN IN JANUARY 1996 IN BEHALF OF HIS CHILDREN WERE DENIED BY THE DEPARTMENT BASED UPON A JANUARY 29, 1996 THAI CUSTODY ORDER GIVING THE CHILDREN'S THAI MOTHER SOLE CUSTODY. THE JANUARY 1996 ORDER WAS TEMPORARY. A SUBSEQUESNT FINAL CUSTODY ORDER WAS

ISSUED ON JULY 30, 1999, GIVING THE MOTHR SOLE CUSTODY.

3. SUBMITTING THE EXECUTED PASSPORT APPLICATIONS WITHOUT A COURT ORDER SUPERSEDING THE JULY 1999 THAI COURT

ORDER WE HAVE ON FILE IN THE DEPARTMENT WILL NOT NOT/NOT OVERCOME THE PREVIOUS DENIAL. DEPARTMENT REQUESTS POST TO ADVISE DR. SOUTHERN THAT UNLESS HE OBTAINS (1) A COURT ORDER FROM THE U.S. (WITH THE EX-WIFE DULY REPRESENTED IN THE U.S. COURT) OR THAILAND GIVING HIM SOLE CUSTODY, OR AN AFFIDAVIT OF CONSENT OR NOTARIZED STATEMENT FROM THE MOTHER AGREEING TO PASSPORT ISSUANCE TO HIM FOR SEAN AND MICHAEL SOUTHERN, DEPARTMENT WILL NOT BE ABLE TO ISSUE THE PASSPORTS.

4. PLEASE ADVISE DEPARTMENT OF FINAL ACTION TAKEN BY POST IN THIS CASE. DEPARTMENT APPRECIATES EMBASSY'S ASSISTANCE AND COOPERATION, IN PARTICULAR THE ACS UNIT, WHICH HAS DEMONSTRATED A HIGH THRESHOLD OF PATIENCE AND RESOURCEFULNESS IN DEALING WITH PASSPORT APPLICATIONS FOR MINORS WHO ARE INVOLVED IN CUSTODY DISPUTES.

POWELL
BT
#8497
NNNN

End Cable Text

Printed By: Barbara A. Taylor 05/04/2001 08:04:28 AM

UNCLASSIFIED

ACTION

Printed by: SysAdm2 02/24/2000 06:56:16 AM
SECSTATE 32790

From: SECSTATE SECSTATE MRN: 32790
Date/Time: 232253Z FEB 00
Precedence: ROUTINE
Subject: CHILD CUSTODY CASE-
CATHERINE,SEAN AND MICHAEL SOUTHRN
Cable Text:

UNCLAS SECSTATE 32790
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ACTION: CONS
INFO: CHRON DCM EXA AMB

(STAMP) (handwritten)
9 ACS-Action ¶ 3
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RECEIVED
24 FEB 2000
CONSULAR SECT (handwritten)
BANGKOK Copy for
THAILAND Dr. Southern

DISSEMINATION: CONS1
CHARGE: PROG
VZCZCBK0465
RR RUEHBK
DE RUEHC #2790 0542254
ZNR UUUUU ZZH
FM SECSTATE WASHDC
TO AMEMBASSY BANGKOK 3231
BT
UNCLAS STATE 032790

E.O. 12958: N/A
TAGS: CPAS CASC (SOUTHERN, CATHERINE, SEAN AND MICHAEL)
SUBJECT: CHILD CUSTODY CASE- CATHERINE, SEAN, AND MICHAEL SOUTHERN

REF:

1. AFTER REVIEW OF COURT ORDER ISSUED ON JULY 30, 1999, BY THE CENTRAL JUVENILE AND FAMILY COURT, BANGKOK, REGARDING THE SUBJECT CHILDREN, PASSPORTS MAY NOT BE ISSUED AT THIS TIME. THE ORDER INDICATED THAT BOTH PARENTS, MRS. ORAWAN SOUTHERN AND MR. JOSEPH WILLIAM SOUTHERN, WERE PRESENT AND THE COURT CONFIRMED ITS ORDER GIVING CUSTODY TO THE MOTHER.

2. DR. SOUTHERN WIL NEED TO OBTAIN AN ORDER FROM THE COURT OR THE AGREEMENT OF THE CHILDREN'S MOTHER SUPPORTING HIS REQUEST FOR ISSUANCE OF PASSPORTS TO HIS CHILDREN.

3. DR. SOUTHERN SHOULD BE ADVISIED OF THE ABOVE DECISION.

4. DEPARTMENT APPRECIATES POST'S ASSISTANCE IN THIS DIFFICULT CASE.
ALBRIGHT
BT
#2790
NNNN

End Cable Text
Printed by: SysAdm2 02/24/2000 05:56:16 AM

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DR. JOSEPH W. SOUTHERN	:	
Plaintiff	:	
v.	:	Civil Action : No. 02-1618 (JR)
COLIN L. POWELL, Secretary of State,	:	
Defendant.	:	

ORDER

For the reasons set forth in the accompanying Memorandum, defendant's motion to dismiss [#9] is **granted.**

SO ORDERED this 30th day of May 2003.

JAMES ROBERTSON
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DR. JOSEPH W. SOUTHERN	:	
Plaintiff	:	
v.	:	Civil Action : No. 02-1618 (JR)
COLIN L. POWELL, Secretary of State,	:	
Defendant.	:	

MEMORANDUM

This action arises from a child custody dispute. The plaintiff is a citizen of the United States currently living in Thailand. His ex-wife is a citizen and resident of Thailand. Plaintiff, who appears pro se, seeks mandamus relief directing the Secretary of State to issue United States passports to his children and to ensure that the children are sent to the United States. Defendant moves to dismiss for failure to state a claim upon which relief can be granted. The motion will be granted.

Plaintiff has been trying for years to obtain U.S. passports for his children from the U.S. Embassy in Thailand. Amend. Compl. at ¶ 37. On February 13, 1996, he was advised by the Embassy that the passports would not be

issued because of an order issued by a Thai court awarding temporary custody to his ex-wife. Id. He then returned to the United States and obtained a judgment of dissolution of marriage from a Florida court in November 1996. The Florida court awarded custody of the children to him, but a Thai court refused to enforce that order. On December 4, 1998, the Thai court entered a final judgment granting sole custody to the plaintiff's ex-wife. Id. At ¶¶ 1, 48, 49, 65. Plaintiff continued his efforts to obtain passports for his children, but without success because of the ongoing custody dispute, the absence of consent by his ex-wife, and the judgement of the Thai court. Id. at ¶¶ 3, 80.

The mandamus relief plaintiff seeks in this case cannot be granted because the issuance of a United States passport is discretionary, 22 U.S.C. § 211a; Kent v. Dulles, 357 U.S. 116, 124 (1958), and because the Secretary is under no duty to arrange for the plaintiff's children to be brought to the United States. E.g., Consolidated Edison Co. v. Ashcroft, 286 F. 3d 600, 605 (D.C. Cir. 2002) (mandamus is a drastic remedy, to be invoked only in extraordinary situations, and is inappropriate except where a public official has violated a ministerial duty.

Even if the complaint is liberally construed as an action challenging the validity of the Secretary's denial of the

passport applications, [1] it must be dismissed because the plaintiff can prove no set of facts in support that would entitle him to relief. Under the regulations governing the issuance of passport, a passport application may be executed on behalf of a minor by just one parent if that parent provides documentary evidence that he or she is the sole parent or has sole custody of the child or submits a written statement from the non-applying parent consenting to the issuance of the passport. 22 C.F.R. §§ 51.27 (b) (2) (ii) (A), (B). The plaintiff cannot satisfy these regulatory provisions. The Secretary, moreover, has the discretion to deny issuance of a passport to a minor who is the subject of a custody dispute if the State Department has on file an order by a court of competent jurisdiction in the United States or abroad granting sole custody to the objecting parent. 22 C.F.R. § 51.27 (d) (1) (i) (A). The applicable regulations also provide that the Department "may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appropriate court before a passport be issued." 22 C.F.R. § 51.27 (d) (3).

---

1 This APA discussion proceeds from what is perhaps an overabundant allowance of leeway to a *pro se* plaintiff, The 71-page amended complaint (not counting the 62 pages of attachments) is incomprehensible at times, but is clear in term of the relief that plaintiff seeks, which is a mandamus under 28 U.S.C. § 1361.

Even assuming arguendo that an APA claim would be ripe for consideration, [2] plaintiff has not made allegations that call into question the applicability of these regulations and thus has stated no claim for relief under the APA. [3]

An appropriate order accompanies this memorandum.

JAMES ROBERTSON
United States District Judge

---

2 Plaintiff has made no showing of exhaustion of administrative remedies available under 22 C.F.R. §§ 51-80-89

3 The fact that one of the plaintiff's other children obtained a passport has no bearing on the validity of the Secretary's actions in this case, because both plaintiff and his ex-wife (who has sole custody of the children under the order of the Thai court on file with the State Department) requested the passport for that child. Amend. Compl. at ¶ ¶ 4, 82, 83.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 03-5197 September Term, 2003

02cv01618

Joseph W. Southern, Dr., Father of
Sean S. Southern and
Michael J. Southern
Appellant

Filed On: (stamp)
United States Court of
Appeals for District of
Columbia Circuit

Filed JUN 23 2004

v. CLERK

Colin L. Powell, Secretary of State
Appellee

BEFORE: Ginsburg, Chief Judge, and Edwards, Sentelle, Henderson, Randolph, Rogers Tatel, Garland, and Roberts, Circuit Judges

ORDER

Upon consideration of appellant's position for rehearing en banc and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT
Mark J. Langer, Clerk

BY: "s/ Nancy G. Dunn"
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 03-5197 September Term, 2003

02cv01618

Joseph W. Southern, Dr., Father of
Sean S. Southern and
Michael J. Southern
Appellant

Filed On: (stamp)
United States Court of
Appeals for District of
Columbia Circuit

Filed MAR -2 2004

v.

CLERK

Colin L. Powell, Secretary of State
Appellee

BEFORE: Rogers, Tatel, and Roberts, Circuit Judges

ORDER

Upon consideration of the motion for oral argument, and the motion for summary affirmance and the response thereto, it is

ORDERED that the motion for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F. 2d 294, 297 (D.C. Cir. 1987) per curiam). Inasmuch as issuance of a passport is a discretionary act, see Haig v. Agee, 453 U.S. 280, 299 (1981); 22 C.F.R. § 51.27(d)(1)(i)(A), the statute appellant cites (28 U.S.C. § 1738A) is applicable. Appellant failed to show there has been any violation of the Department of State's regulations.

Accordingly, appellant did not satisfy the heavy burden necessary to obtain a writ of mandamus. See, Kerr v. District Court for the Northern Dist. Of California, 426 U.S. 394, 402 (1976) (party seeking mandamus relief must show that its right to the relief is clear and indisputable); Roche v. Evaporated Milk Assn., 319 U.S. 21, 26 (1943) (party seeking issuance of the writ must have no other adequate means to obtain the requested relief.) The district court there correctly denied the extraordinary relief) and determined that appellant failed to state a claim upon which relief may be granted. It is

FURTHER ORDERED that the motion for oral argument be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

"s/JWR/DL
J(?)R"

TREATIES AND OTHER INTERNATIONAL ACTS
SERIES 6540

AMITY AND ECONOMIC RELATIONS

Treaty Between the
United States of America
and Thailand

Signed at Bangkok May 29, 1966

and

Three Exchanges of Notes

(Seal)
Department of State
United States of America

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)-

"....the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence...of the treaties, international agreements other than treaties, and proclamations by the President of such treaties, as the case may be, therein contained, in all courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without further proof or authentication thereof."

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401- Price 20 cents

THAILAND

Amity and Economic Relations

Treaty, with exchanges of notes, signed at Bangkok May 29, 1966;
Ratification advised by the Senate of the United States of America
September 11, 1967;
Ratified by Thailand April 1, 1968;
Ratifications exchanged at Washington May 8, 1968;
Proclaimed by the President of the United States of America
August 17, 1968
And related notes
Signed at Bangkok May 29, 1966;
Entered into force June 8, 1968

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a treaty of amity and economic relations between the United States of America and the Kingdom of Thailand, together with two exchanges of notes relating thereto, was signed at Bangkok on May 29, 1966;

WHEREAS the original of the treaty in the English and Thai languages and the texts of the notes in the English language are word for word as follows:

TREATY OF AMITY AND ECONOMIC RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THAILAND

The United States of America and the Kingdom of Thailand, desirous of promoting friendly relations traditionally existing between them and of encouraging mutually beneficial trade and closer economic and cultural intercourse between their peoples, have resolved to conclude a Treaty of Amity and Economic Relations, and for that purpose have appointed as their Plenipotentiaries:

THE PRESDIENT OF THE UNITED STATES OF AMERICA:

His Excellency GRAHAM MARTIN,
Ambassador Extraordinary and Plenipotentiary
of the United States of America
to the Kingdom of Thailand; and

HIS MAJESTY THE KING OF THAILAND

His Excellency THANAT KHOMAN
Minister of Foreign Affairs
of the Kingdom of Thailand;

Who, having communicated to each other their full powers to be in due form, have agreed as follows:

ARTICLE I

1. Nationals of either party shall subject to the laws relating to the entry and sojurn of aliens, per permitted to enter the territories of the other Party, to travel therein freely, and to reside at places of their choice and in particular to enter the territories of the other party and to remain therein for the purpose of : (a) carrying on trade between the territories of the two Parties and engaging in related commercial activities; or (b) developing and directing the operations of an enterprise in which they have invested or are actively in process of investing a substantial amount of capital. Each party reserves the right to exclude, restrict the movement of, or expel aliens on grounds relating to public order, morals, health and safety. The provisions of (b) above shall be construed as extending to a national of either party solely for the purpose of developing and directing the operations of an enterprise in the territories of such other party in which his employers has invested or is actively in the process of investing a substantial amount of capital, provided that such employers is a national or company of the same

nationality as the applicant and that the applicant is employed by such national or company in a responsible capacity.

2. Nationals of either Party within the territories of the other party shall receive the most constant protection and security, in no less than that required by international law. When any such national is in custody, he shall in every respect receive reasonable and humane treatment; and on his demand the diplomatic or consular representative of his country shall be immediately notified and accorded full opportunity to safeguard his interests. He shall be promptly informed of the accusations against him, and allowed ample facilities to defend himself.

ARTICLE III

1. Each party shall al times accord fair and equitable treatment to nationals and companies of the other party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their legally acquired rights and interests; and shall assure that their lawful contractual rights are afforded effective means of enforcement, in conformity with the applicable laws.

2. Property of nationals and companies of either Party including direct or indirect interests in property, shall receive

the most constant protection and security within the territories of the other party. Such property shall not be taken without due process of law or without payment of just compensation in accordance with the principles of international law.

ARTICLE XIII

1. Each party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy or other pacific means, shall be submitted, at the request of either Party, to a panel of arbitrators for settlement in accordance with applicable principles of international law. The panel shall be composed of three members, one selected by each Party and the third chosen by the members selected by the Parties. In the event the members selected by the Parties are unable to agree upon a third member within one month, the third member shall be one who is designated by the Secretary-General of the United Nations at the request of either Party.

ARTICLE XIV

1. The present Treaty shall be ratified, and the ratification thereof shall be exchanged at Washington, D.C. as soon as possible.

2. The present Treaty shall enter into force one month after the date of exchange of ratifications. Thereupon it shall replace and terminate the Treaty of Friendship, Commerce and Navigation signed at Bangkok 13, 1937 [1]

3. The present Treaty shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

4. Either Party may, by giving one year's written notice at the end of the initial ten-year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and affixed their seals.

DONE in duplicate, in the English and Thai languages, both equally authentic, at Bangkok, this twenty-ninth day of May in one thousand nine hundred and sixty sixth year of the Christian Era, corresponding to the two thousand five hundred and ninth year of the Buddhist Era.

---

[1] TS 940; 53 Stat. 1731

FOR THE UNITED STATES OF AMERICA	FOR THE KINGDOM OF THAILAND
"s/GRAHAM MARTIN"	"s/TH. KHOMAN"

(Thai characters)
TM.12 (Thai characters)
DUTY STAMP

(Thai characters)
APPEAL TO THE IMMIGRATION COMMISSION

(Thai characters)
written at……..

(Thai characters)
date…….. month……. Year…….

(Thai characters)
To: Immigration Commission
(Thai characters……)
I, (Mr., Mrs., Miss.,)….family name…..first name…….

(Thai characters)
middle name……age…….year……..nationality……

(Thai characters)
holding passport or travelling document no……issued at…...

(Thai characters)
date….. month…. .year……valid until…..month…..year…...

(Thai characters)
category of visa……..arrived by mode of transportation……

(Thai characters)
from……port of arrival……

Thai characters)
date…..month……year……..arrival/departure card TM 6 no.

(Thai characters)
have received a notice that the Director-General of the Police Department has revoked permission of my stay under section 36 of the Immigration Act., B.E. 2522 and that I shall have to leave the Kingdom

(Thai characters)

I hereby appeal to the Immigration Commission as follow:

.....

.....

(Thai characters)

Yours sincerely

(Thai characters) (Thai characters)

signature or right thumb print.....applicant

(Thai characters) (Thai characters)

This appeal is written by.....

(Thai characters)

address no.....road.....Tambon/Khwang.....

(Thai characters)

Amphoe/Khet.....Changwat.....

(Thai characters)

signature.....writer

(Thai characters) (Thai characters)

(Thai characters) 4 x 6 NOTICE

Photograph 1. (Thai characters)

4 x 6 cm APPEAL MUST BE MADE IN PERSON

2. (Thai characters)

APPEAL FEE IS 500 BAHT

3. (Thai characters)

WHETHER PERMISSION IS GRANTED OR NOT, APPEAL FEE IS NOT REFUNDABLE

Note: Immigration Act of 1979, Winyuchon Publication House. Printed in Thailand, 1999. Purchased from the Chulalongkorn University Book Store by the Petitioner on August 23, 2002. Amend. Compl. at ¶ 27.

Immigration Act, B.E. 2522, Section 36: For the aliens who are allowed to stay in the Kingdom for a temporary period, if having a circumstance which is deemed appropriate to revoke the permit to stay in the Kingdom, the Director-General or the Committee shall have the power to revoke such permit which has been granted, either by the Director-General or the person authorized by the Director-General.

In case the Director-General has an order to revoke the permit, the alien whose permit has been revoked may submit an appeal to the Committee. The Order of the Committee shall be considered to be final but if the order of revocation of the permit has been made by the Committee itself, such Order shall be considered to be final.

Any submission of an appeal against the Order of the Director-General in the second paragraph must be submitted to the competent official within forty-eight hours from the time such Order of the Director General has been acknowledged and that appeal must be made according to the form and must make payment of the fee as determined in the Ministerial Regulation.

When there is a revocation of the permit under the first paragraph, a written notice must be made to such alien. In case such letter cannot be sent to the alien, after the competent official has posted up such a notice at the residence of such alien for a period of forty-eight hours, it shall be considered that such alien has acknowledged the Order.

Translation done by Mr. Virachai Chairaya of Bangkok Translation Office, 562 Ploenchit Road, Bangkok, Thailand, Tel: 02-256-5666 on September 14, 2004. It should be noted that Mr. Chairaya will willing appear at court hearings to testify on the behalf of the authenticity of his translations.

OFFICIAL

FLORIDA STATUTES

1993

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Joint Legislative Management Committee

GREAT SEAL OF THE STATE OF FLORIDA

IN GOD WE TRUST

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TALLAHASSEE

TITLE VI
CIVIL PRACTICE AND PROCEDURE

Dissolution of marriage; support; custody.....61

CHAPTER 61

DISSOLUTIONOF MARRIAGE;SUPPORT;CUSTODY

61.046 Definitions
61.061 Proceedings against nonresidents
61.13 Custody and support of children; visitation rights; power of court in making orders
61.1304 Purposes of act; construction of provisions.
61.1308 Jurisdiction
61.131 Notice and opportunity to be heard
61.1312 Notice to persons outside this state; submission to jurisdiction
61.1314 Simultaneous proceedings in other states
61.1316 Inconvenient forum
61.1318 Jurisdiction declined by reason conduct
61.132 Information under oath to be submitted to the court
61.1326 Binding force and res judicata effect of custody decree
61.1328 Recognition of out-of-state custody decrees
61.133 Modification of custody decree of another state
61.1332 Filing and enforcement of custody decree of another state
61.1334 Registry of out-of-state custody decrees and proceedings
61.1338 Taking testimony in another state
61.134 Hearings and studies in another state; orders to appear
61.1342 Assistance to courts of other states
61. 1346 Request for court records of another state
61.1348 International application

61.046 Definitions.—

(1) "Custodial parent" means the parent with whom the child maintains his primary residence.

(7) "Noncustodial parent" means the parent with whom the child does not maintain his primary residence.

61.061 Proceedings against nonresidents.—Proceedings may be brought against persons residing out of the state.

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(b)1. The court shall determine all matters relating to custody of each child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction Act. It is the public policy of this state to assure that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities of childrearing. After considering all relevant facts, the father of the child shall be given the same consideration as the mother in determining the primary residence of a child irrespective of the age or sex of the child.

(3) For purposes of shared parental responsibility and primary residence, the best interests of the child shall include an evaluation off all factors affecting the welfare and interests of the child, including, but not limited to:

(a) The parent who is more likely to allow the child frequent and continuing contact with the nonresidential parent.

(b) The love, affection, and other emotional ties existing between the parent and the child.

(c) The capacity and disposition of the parents to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs.

(d) The length of time the child has lived in a stable satisfactory environment and the desirability of maintaining continuity.

(e) The permanence, as a family unit, of the existing or proposed custodial home.

(f). The moral fitness of the parents.

(g) The mental and physical health of the parents.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.
(j) The willingness and ability of each parent to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent.
(k) Any other fact considered by the court to be relevant.
(4) (c) When a custodial parent refuses to honor a non-custodial parent's visitation rights without proper cause, the court may:
1. After calculating the amount of visitation improperly denied, award the noncustodial parent a sufficient amount of extra visitation to compensate the noncustodial parent, which visitation shall be taken as expeditiously as possible in a manner which does interfere with the best interests of the child; or
2. Award the custody or primary residence to the noncustodial parent, upon the request of the noncustodial parent, if the award is in the best interests of the child.
(d) A person who violates this subsection may be punished by contempt of court or other remedies as the court deems appropriate.

61.1304 Purposes of act; construction of provisions.—The general purposes of this act are to:
(1) Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children state to state with harmful effects on their well-being.
(2) Promote cooperation with the courts of other states to the end that custody decree is rendered in the state which can best decided the case in the interest of the child.
(3) Assure that litigation concerning the custody of the child takes place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that the

courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state.
(4) Discourage continuing controversies over child custody in the interest of greater stability of home environment and secure family relationships for the child.
(5) Deter abductions and other unilateral removals of children undertaken to obtain eustody awards.
(6) Avoid relitigation of custody decisions of other states in this state insofar as feasible.
(7) Facilitate the enforcement of custody decrees other states.
(8) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child.
(9) Make uniform the law with respect to the subject of this act among states enacting it.

61.1308 Jurisdiction.--
(1) A court of this state, which is competent to decide child custody matters, has jurisdiction to make a child custody determination by initial or modification decree if:
(a) This state:
1. Is the home state of child at the time of commencement of the proceeding, or
2. Had been the child's home state within 6 months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state;
(b) It is the best interest of the child that a court of this state assume jurisdiction because:
1. The child and his parents, or the child and at least one contestant, have a significant connection with this state, and
2. There is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(d) 1. It appears that no other state would have jurisdiction under the prerequisites substantially in accordance with paragraph (a), paragraph (b), or paragraph (c), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and
2. It is the best interest of the child that a court of this state assume jurisdiction.
(3) Physical presence of the child, while desirable is not a prerequisite for jurisdiction to determine his custody.

61.131 Notice and opportunity to be heard.—
Before a decree is made under this act, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to s. 61.1312.

61.1312 Notice to persons outside this state; submission to jurisdiction.—
(1) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be:
(a) By personal delivery outside this state in the manner prescribed for service of process within this state;
(b) In the manner prescribed by law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;
(c) By any form of mail addressed to the person to be served and requesting a receipt; or
(d) As directed by the court, including publication, if other means of notification are ineffective.
(2) Notice under this section shall be served, mailed, delivered, or last published at least 20 days before any haring in this state.

(3) Proof of service outside this state may be made by affidavit of the individual who made the service or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.
(4) Notice is not required if a person submits to the jurisdiction of the court.

61.1314 Simultaneous proceedings in other states.
(1) A court of this state shall not exercise its jurisdiction under this act if, at the time the petition is filed, a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this act, unless the proceeding is stayed by the court of the other sate because this state is a more appropriate forum or for other reasons.
(2) Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under s. 61.132 and shall consult the child custody registry established under s. 61.1334 concerning the pendency of a proceeding with respect to the child in other states. If the court has reason to believe that a proceeding may be pending in another sate, it shall direct an inquiry to the state court administrator or other appropriate official of the other state.
(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending, to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with ss. 61.134-61.1346. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court

of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

61.1316 Inconvenient forum.—

(1) A court which has jurisdiction under this act to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(2) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(3) In determining if it an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take in account the following factors, among others:

(a) If another state is or recently was the child's home state.

(b) If another state has a closer connection with the child and his family or with the child and one or more of the contestants;

(c) If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state.

(d) If the parties have agreed on another forum which is no less appropriate; and

(e) If the exercise of the jurisdiction by a court of this state would contravene any of the purposes stated in s. 61.1304.

(4) Before determining whether to decline or retain jurisdiction, the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court, with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(5) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other condition which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(6) The court may decline to exercise its jurisdiction under this act if a custody determination is incidental to an action for dissolution of marriage or another proceeding while retaining jurisdiction over the dissolution of marriage or other proceeding.

(8) Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact or, if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(9) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction, the court of this state shall inform the original court of this fact.

61.1318 Jurisdiction declined by reason of conduct.—

(1) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may decline to exercise jurisdiction if this just and proper under the circumstances.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has

improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

61.132. Information under oath to be submitted to the court.—
(1) Every party in a custody proceeding, in his first pleading or in an affidavit attached to that pleading, shall give information under oath as to the child's present address, the places where the child has lived within the last 5 years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath whether:
(a) He has participated as a party or witness or in any other capacity in any other litigation concerning the custody of the same child in this or any other state;
(b) He has information of any custody proceeding concerning the child pending in a court of this or nay other state; and
(c) He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.
(2) If the declaration as to any of the above items is in the affirmative, the declarant shall give additional information under other as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other maters pertinent to the court's jurisdiction and the disposition of the case.
(3) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which he obtained information during this proceeding.

61.1326 Binding force and res judicata effect of custody decree.— A custody decree rendered by a court of this state which has jurisdiction under s. 61.1308 binds all parties who

have been served in this state or notified in accordance with s. 61.1312 or who have submitted to the jurisdiction of the court, and who have been given the opportunity to be heard. As to these parties, the custody decree is conclusive as to all the issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this act.

61.1328 Recognition of out-of-state custody decrees.----
The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this act, or which decree was made under factual circumstances meeting the jurisdictional standards of the act, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this act.

61.133 Modification of custody decree of another state.—
(1) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless:
(a) It appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this act or has declined to assume jurisdiction to modify the decree; and
(b) The court of this state has jurisdiction.
(2) If a court of this state is authorized under subsection (1) and s. 61.1318 to modify a custody decree of another state, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with s.61.1346

61.1332 Filing and enforcement of custody decrees of another state.---
(1) A certified copy of a custody decree of another state may be filed in the office of the clerk of any circuit court of this

state. The clerk shall treat the decree in the same manner as a custody decree of a circuit court of this state. A custody decree so filed has the same effect and shall be enforced in like manner.

(2) A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.

61.1338 Taking testimony in another state.— In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which, and the terms upon which, the testimony shall be taken.

61.134 Hearings and studies in another state; orders to appear.—

(1) A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or, if necessary, ordered paid by the state

(2) A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings and, if that party has physical custody of the child, to appear with

child. The request may state that travel and other expenses of the party and the child whose appearances are desired will be assessed against another party or will otherwise be paid.

61.1342 Assistance to courts of other states.—
(1) Upon request of the court of another state, the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce evidence or give evidence under other procedures available in this state or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the clerk of the court to the requesting court.
(2) A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.
(3) Upon request of the court of another state, a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

61.1346 Request for court records of another state.
If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state, upon taking jurisdiction of the case, shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in s. 61.1344.

61.1348 International application.—The general policies of this act extend to the international area. The provisions of this act relating to the recognition and enforcement of custody decrees of other states apply to custody decrees, and decrees

involving legal institutions similar in nature to custody institutions, rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

(logo)
SEAAC

March 23, 1995

Mr. Thomas Furey
Consul General
American Embassy

Dear Mr. Furey:

Re: Annual Extension of Non-Immigrant Visa for Dr. Joseph W. Southern

On March 15, 1995 I went to immigration in accordance with the date stamped in my American passport.

There I was told by a colonel in a 3rd floor office along with a woman immigration inspection officer from Room 201 that my extension for business reasons was denied because 1) I did not show that I have 7 Thai employees and 2) I did not show Bht 2 million capitalization for my company.

In my passport is stamped that I am to leave the country by March 22nd, yesterday.

At my meeting with the colonel and the inspector on March 15th, the colonel and the inspector stated that if I showed an income tax statement showing Bht 20,000 per month, with my wife coming to immigration signing a statement, then my annual visa can be extended, which I assume would be as before, for one year.

On March 20th I go to my accountant's office, where a staff member helps me to fill out Form 90, the income tax form, which I received by mail from the Revenue Department on February 3rd.

On March 21st I go to Din Daeng and pay the income tax and then go to immigration to show the immigration officer at desk 8 the original and give him a copy of Form 90, along with a copy of the receipt.

He asks me where is my wife. I then tell him what my wife told me, that she telephoned immigration on Monday, March 20th, and is told by a woman immigration officer that my visa is being extended for business reasons. My wife did not provide the name of the immigration officer.

However as previously noted, on March 15th I was told at immigration that the extension for the non-immigrant visa for business reasons was shot down.

(Handwritten note) 23Mar95-Stopped by Suphachai's office to discuss-said will take care personally saw

---

SOUTHEAST ASIA AGRICULTURAL CONSULTANTS
(THAILAND) LTD.
1 SOI INDRAMARA 30, BANGKOK 10400,THAILAND

The immigration officer at desk 8, Joy, would not extend my visa beyond March 22nd, so that I could have my wife come to immigration.

I then telephone my wife at her office in the immigration office, asking her to come to immigration, she flatly refuses. I then give the telephone receiver to Mr. Joy, the immigration officer, who explains that she needs to come to immigration.

I am told by Joy that my wife after being interviewed, would sign a form and that 1) she is my wife, 2) I support my family, and 3) we live together. All true and can be fully documented..

My wife tells me over the phone about getting a divorce, which the last time the subject was brought up by her was in January 1993 when the maid quit.

Currently my oldest daughter is staying with my mother and attending Holy Family Catholic School in North Miami.

Last year there was an attempt by my wife and her parents without my knowledge, to have my daughter return to Thailand by sending money for a one-way plane ticket to Thailand.

My mother telephones me asking about it, and I explain to her I knew nothing about it. I told my mother that Aileen was to remain with her and was not to return to Thailand.

The money for the plane ticket was spent for her tuition.

My daughter does not want to return to Thailand (please see enclosed letter to me from my daughter).

My daughter will enter Archbishop Curly High School in Miami this September, and will be in the Honor's Program there.

My wife last month sends a letter to my daughter and mother, saying we are getting a divorce, which my mother and daughter ask me about, when I telephone them and learned about this.

My wife in this letter also stated that I was not living with her and the children. Again not true.

This was news to me, and as for the divorce there will be none.

My daughter suggested that Mom needs counseling, which I certainly agree with.

There is simply no grounds whatsoever for my wife getting a divorce.

Unless of course the fact that our children are Americans and not Thai and are not interested in being Thai's and are being raised mostly by me are grounds for a divorce in a Thai court, then maybe we are getting a divorce.

But I have not spoken to any lawyer about any divorce.

When I say that I raise our children I mean the following:

1) I prepare all their meals, except for lunch and dinner on Saturday, when they are with my wife. The meals are American and I rely a lot on the New York Times Cook Book, or Joy of Cooking.

I am currently finishing the construction of a 4 bedroom, 2 bathroom home in Pathum Thani. Yesterday I finished the patio (finished pouring the concrete) and will start on the walkway tomorrow.

The house is about 90% finished.

My 3 children were with me yesterday (school is out for them). We returned to Bangkok yesterday about 1930 hours, and for a quick dinner I made them hot dogs, orange juice, and strawberry jello.

2) I buy the food and the Polaris water. My wife provides Bht 2,00 monthly, I pay the rest which is about Bht 3,000-4,000 more.

The type of food that my children prefer to eat is generally not available in the Suttisan area, requiring that I go to Makro or Central. I am the only one who can drive.

Except for some vegetables which I can buy at the local market, the local chicken and beef is heavily contaminated with bacteria and is unedible.

3) I wash all their clothes.

4) I ensure that they are receiving a proper religious education, a Catholic one, at Holy Redeemer by attending Fr. Martin's CCD class and Children Mass every Sunday.

My wife is Buddhist.

Because of problems with the in-laws, my children and I eat by ourselves in my office at a portable picnic table.

In the office I have a freezer, microwave, hot plates, and a TV with a video cassette player for the kids to watch American videos.

Since our home is almost completed and will be finished, we can put up with the inconvenience.

The in-laws are Thai nationalists. They don't like the fact that my children are being raised as Americans and eat American food, and speak English.

As for immigration, Joy said that if I had a court decree giving me custody of the children, then getting an extension of the non-immigrant visa is not difficult.

Which is a very strange statement to make from any member of immigration. This was On March 21st.

After the problem with Joy on March 21st, I went to a third floor office and explained my problem to a colonel.

He then asks me to write a letter to immigration requesting that my visa be extended without the need for my wife to appear. He then writes a note in Thai and says that I was to see the woman immigration inspector in Room 201.

I give this note to her, she then says she needs to get approval from her boss, (whether they did this I have no idea, since Joy who was to take my request along with the note from the colonel on the 3rd floor, told me to stay in Room 201 while he went to see her boss).

After about an hour I was told my request was denied.

My wife knows that by her not appearing at immigration and signing the statement that I am overstaying my visa. Joy said that the fine for this is Bht100/day. But also said that I could pay this and then re-apply as before and remain in Thailand.

I told Joy that I am not leaving Thailand because of the need to take care of my 3 children. I am not about to leave the care of my children in the care of the in-laws.

Since my work permit is tied to the visa in the passport, the work permit will also expire soon as well requiring reapplication.

What I will do is to re-apply under the business visa by increasing the capitalization of my company and resolving the 7 employee thing.

What I need at this point is for immigration to extend my visa under the staying with family in Thailand classification for a year, which will give me the time to increase the capitalization of my company and the 7 employee thing, finish the house and move out.

Therefore I would appreciate the Embassy's assistance in this manner, while I return to immigration to resolve the current problem by locating somebody who has the sense and authority to resolve this problem.

Thank you,

"s/Joseph W. Southern"
Dr. Joseph W. Southern

(logo)
SEAAC

May 3, 1995

Mr. Chris Richards
American Services Section
American Embassy
Bangkok

Dear Mr. Richards:

Re: Request for Divorce by Orawan Southern to Dr. Joseph Southern

Last Friday afternoon April 28th, I picked up at Samsen Post Office the enclosed letter.

I did not mention to my wife or anybody else that I received this letter, except to Mr. Leonard Chinitz at his office yesterday.

Mr. Chinitz of International Legal Counsellors was very helpful and provided me the name of a Thai law firm that can handle this matter.

I have no intention of discussing this matter with my wife or any of her relatives, since I have made it very clear to them how our children will be raised.

Mr. Chinitz stated that it is a threatening letter, and that it seems that the attorney went through Section 1516 of Thai law dealing with divorce, and then came up with a list of allegations that have yet to be proved.

SOUTHEAST ASIA AGRICULTURAL CONSULTANTS (THAILAND) LTD.
1 SOI INDRAMARA 30, BANGKOK 10400,THAILAND

In a letter to Mr. Thomas Furey from me dated March 23rd, I noted that I was not contacted by any attorney about any divorce, and also stated that because my children are being raised by me as American's then perhaps we are getting a divorce. Also I may add as Catholics (see enclosure, page 3 of this letter).

Obviously this is the case as noted in the letter to me about a possible divorce.

As for the allegation about deserving support, my wife did express annoyance a few years ago while sitting in my double cab Isuzu truck in a Bangkok traffic jam, about not having a Volvo.

So perhaps this is what her lawyer is referring to, and may possibly be grounds for divorce in Thailand.

I would prefer to follow a fellow Minnesota graduate's advice, and buy cheap cars and expensive houses (in this case a double cab truck and build an American standard home please see enclosure).

As for the other allegation that my children are Thai. This is not true. As noted on 3 of their Thai birth certificates they are Americans. (see enclosures).

The issue that is driving this divorce, is my older daughter's determination to remain in North Miami with my mother, and continue her education at a Catholic high school.

She will remain in Miami with my mother and continue her Catholic education.

As for this possible divorce I will not agree to it, and if necessary go to court and request custody of all of my children

I will finish the house that I am currently working on, and with my children move into it. My wife is certainly welcome to live her husband and children.

The idea of my wife obtaining custody is absurd. The oldest daughter will certainly refuse to do so, coupled with the fact that my children are American's and need to be educated in the United States, which means among other things preparing for the SAT test which is administered in English.

Coupled with being taught appropriate values such as those from the Catholic Church.

It is me that speaks to them in English and corrects their grammar, plus preparing meals of appropriate nutritional standards, and most importantly ensuring that they are raised as Catholics.

Requirements which both my wife and her parents are incapable of performing and would refuse to do so.

Last month on April 6th, a younger nephew who was temporarily in the care of my wife's mother was fed only toast and jam for breakfast. While my children in another room had ham and eggs, and orange juice for breakfast.

I noted this a number of times, her simply feeding this child with the least effort. -

At this point I will contact the Thai lawyer Mr. Chinitz suggested and attempt to prevent this divorce from occurring with the hope that my wife can obtain appropriate counseling.

It is quite possible that my wife's attorney may attempt to separate me from my children, by having me arrested for overstaying my visa, or working without a work permit.

Since I was given the deadline of May 12th by the labor department to have my visa extended to keep my work permit, which needs my wife's cooperation, which I doubt I will receive.

I would appreciate the Embassy's assistance in preventing my possibly being arrested.

Sincerely yours,

"s/Joseph W. Southern"

Dr. Joseph W. Southern

(logo)
SEAAC

May 26, 1995

Mr. Chris Richards
American Services Section
American Embassy
Bangkok

Dear Mr. Richards:

Re: My Letter to You Dated May 3, 1995

On May 10th I and 3 of my children visited the law offices of Bamrung, Suvicha, and Apisakdi Law Associates (5th Floor, Ruam Rudee Building, 566 Ploenchit Road, tel: 252-1566/7, 252-6184, 254-4746/7).

There I spoke (the staff gratefully took care of my guys) to an American attorney, Mr. Jim Byrne, and two Thai women attorneys in a conference room.

According to one of the woman attorney's my wife cannot obtain a divorce in Thailand because the 1) the marriage was performed in the United States and is not registered in Thailand.

Also too, our children are American's and not Thai nationals, thus a custody issue would have to be determined by a US court.

SOUTHEAST ASIA AGRICULTURAL CONSULTANTS
(THAILAND) LTD.
1 SOI INDRAMARA 30, BANGKOK 10400,THAILAND

Thus any divorce action on the part of my wife is terminated. Also I have no intention of obtaining a divorce.

My wife told my attorney that she doesn't want a divorce, who then tells me, but then she tells me that she will pursue a divorce in a Thai court.

As for immigration I have heard nothing. I am still overstaying.

As for my work permit, I will visit the Labor Department this afternoon. Today is the last day to obtain a visa extension from immigration, thus I will no doubt lose my work permit this afternoon.

I will finish our home in Pathum Thani, and will move out of Suttisan. At this point I am not quite sure if that can be accomplished by the end of his year, hopefully so.

Sincerely yours,

Dr. Joseph W. Southern

No. 9814807-1

UNITED STATES OF AMERICA

seal of the United States of America

No 1111/2541
Washington, D.C. JUN 29 1998
Certified genuine signature of
FERNESIA T. WATSON
seal of
Royal Thai Embassy,
Washington, D.C.
Initial R V, name stamp
Illegible, Secretary

DEPARTMENT OF STATE

To all to whom these presents shall come, Greetings:

I Certify that the document hereunto annexed is under the Seal of the State of Virginia. *

In testimony whereof, I, Strobe Talbot, Acting Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this twenty-ninth day of June, 1998.

"s/Strobe Talbott"
Acting Secretary of State
By "s/ Fernesia T. Watson"
Assistant Authentication Officer

Department of State

Issued pursuant to CHXIV, State of Sept. 15, 1789, 1 Stat.68-69;22 USC 2657; 22 USC 2651a; 5 USC 301; 28 USE 1733 et.seq.; 8 USC 1443(f):RULE 44 Federal Rules of Civil Procedure

* *FOR THE CONTENTS OF THE ANNEXED DOCUMENT, THE DEPARTMENT ASSUMES NO RESPONSIBILITY*

This certificate is not valid if it is removed or altered in anyway whatsoever

COMMONWEALTH OF VIRGINIA

Seal of Virginia

Office of the
Secretary of the Commonwealth

I, Anne P. Petera, Secretary of the Commonwealth, and as such, Keeper of the Great and Lesser Seals, do hereby certify that Margaret H. Mosher, whose name is signed to the within Acknowledgement bearing the date the 16th day of June 1998, is and was at the time of signing same, a Notary Public for the Commonwealth of Virginia; that she is authorized by the laws of this Commonwealth to make and sign such instrument and that to all her official acts full, faith ,credit and authority are due and ought to be given.

Given under my hand and under the Great Seal of the Commonwealth, at Richmond, the 24th day of June, in the year of our Lord one thousand nine hundred and ninety-eight, and in the 222nd year of the Commonwealth.

"s/Anne P. Petera
Secretary of the Commonwealth

June 15, 1998

Aileen Southern
2023 Quiet Creek CT.
Woodbridge, VA 22192
USA

To Whom it May Concern:

I, Aileen Suteera Southern, am writing this letter as proof that is my wish to live in my birth country, the United States of America. My legal name is Suteera Southern, but I prefer to use my Christian Baptismal name of Aileen, with my legal first name of Suteera as my middle name. I will soon change my legal name from Suteera to Aileen in the near future.

I have lived in this country since August of 1992 with my grandmother, Mrs. Mary Foley Southern. I was enrolled in Holy Family Catholic School in North Miami, Florida for sixth to eighth grade. I attended Archbishop Curley High School in ninth grade and North Miami Senior High School in tenth grade. In the beginning of eleventh grade, on September 29, 1997, my grandmother, Mrs. Mary Foley Southern passed away. I was then placed under the care of my aunt, Ms. Mary Elizabeth Southern. I am currently living in Virginia with my aunt, while attending Stonewall Jackson High School.

Recently, I reached the age of eighteen on April 30, 1998. Therefore, I am considered an adult in both the United States of America and Thailand. It is my decision and my wish to continue to live in the United States of America. I am happy to reside in this country. It is not true that I am forced to live in the United States of America against my will. It is not true that I am forced to work in a prostitution organization (prostitution in the United Sates of America is illegal). It is not true that I have been mistreated while residing in this country. I have been given the best educational opportunities with the support of my grandmother, Mrs. Mary Foley Southern, my aunt, Ms. Mary Elizabeth Southern, and other members of the family. I am happy to live in this country.

At Stonewall Jackson High School, I am currently enrolled in the International Baccalaureate Program. The international program is a highly advanced academic program for students who are capable of learning at a faster pace. This program

also exists in Thailand. It is a universal program that exists in some other countries as well, such as Australia, Switzerland, etc.

Though the International Baccalaureate is more challenging than regular classes, the preparation that I am receiving from the program will better prepare me for colleges and universities. This is important to me since my long term goal is to attend a community college and continue my education in this country. At this time, my major for my courses is undecided. I plan to take a variety of courses during my first years in college. I will begin my first years of college in the year 1999. One school I am most interested in attending is Virginia Polytechnic Institute.

With all of my long term goals in the United States, I do not wish to go back to Thailand. I do not want to be forced to go back to Thailand. Someday I hope to go back to Thailand, but I will only do so on my terms and only if I want to go to visit some of my Thai family.

Sincerely

"s/Aileen Southern"

Aileen Southern

THIS IS A TRUE AND CERTIFIED COPY

"s/Margaret H. Mosher"
NOTARY 06/16/98
My Commission Expires
November 30, 2001

"s/Margaret H. Mosher
NOTARY 06/16/98
My Commission Expires
November 30, 2001

TO: Charles Bennett
Consul and Second Secretary
Embassy of the United States of America
Bangkok

FROM: Dr. Joseph Southern
Bangkok

SUBJECT: Personal Letter From Me to My Oldest Daughter in America, Submitted as Evidence by Plaintiff to Family Court

DATE: April 28, 1998

Dear Mr. Bennett:

Enclosed is a copy of a personal letter from me to my oldest daughter, Brenna Ann, currently a student at the University of Florida, that the plaintiff's lawyer, Kittiwat Na Phuket submitted to the Family Court in 1995.

I was not aware that the plaintiff and her attorney had a copy of this letter, and neither was I aware, until April 9, almost three years later, that it was submitted to the Family Court, until I obtained the file from the case, from my previous attorney, on April 9th, to give to my new attorney, Rijra Bunnag.

It was the after of April 9th, this month, while en route to Rujira's office, that I discovered this letter in my old attorney's file. Portions of the letter were translated by Siam Translation, and then submitted to the Family Court, in 1995.

How the plaintiff or her attorney obtained the letter I don't know. It was on a computer diskette, and quite possibly while I was in the Immigration Detention Center, they broke into my computer files, to obtain the letter.

I consider my relationship with my daughter Brenna to be good. It was Brenna who informed my Mother that I was in IDC, and after Brenna telephoned me in Bangkok, from Gainesville to speak to me, only to be informed by the ex-Thai wife that she had me arrested. It was then that Brenna telephoned my Mother in Miami to tell my Mother. This was in July 1995.

The letter to my daughter Brenna describes my military experience in the Republic of Vietnam as a US Marine officer, plus my training at OCS at Quantico.

The fact that I served my country as a US Marine officer, was translated into Thai by Siam Translation, and submitted to the Thai Family Court by the plaintiff's attorney.

I have highlighted in yellow in the English copy of this letter, the portions that were translated into Thai.

Also to on the next to last page, page 17, in my letter to my daughter Brenna, I explain to her my opposition to anti-Semitism. This was also translated into Thai and submitted to the Family Court.

I assume the Family Court is using this evidence, as they are currently accepting testimony from the plaintiff and her witnesses as to whether the Final Custody Decree from the Florida court will be enforced in Thailand, so that I can obtain custody of my three children in Thailand.

I had the Thai translation checked by both a Thai speaking and reading Canadian and British friends.

My Canadian friend told me that the Thai translation on the last page of the Thai translation is a deliberate distortion. The deliberate distortion is in red.

In the original letter in English, I tell Brenna that *I don't want her younger sister, Suteera to move to Chicago,* for the reasons given on page 17 of the original English language letter.
In the Thai translation it states *I don't want her to move from Chicago.* My British friend also confirms this error.

My Canadian friend, who has had legal training, finds it odd, that while Siam Translation had no difficulty in translating other parts of my letter in Thai. Parts that were more difficult to translate. They made a very significant error in a very easy portion of the letter that was translated.

Rather than translating I didn't want Suteera moving to Chicago, the Thai Translation said moving from Chicago. Which completely alters my entire meaning.

And it was this Thai translation that was given to the Thai Family Court for the judges to read as evidence against me.

Also to on page 17 of the English original of my letter, also indicated in red, I tell Brenna that the *king(state) is subject to the law.*

My Canadian friend also stated to me that the Thai translation can be interpreted as *Less Majesty* committed by me. While in the original English version it cannot.

It would seem that the plaintiff's attorney, Kittiwat na Phuket, used my personal letter to my daughter Brenna in Florida as evidence to buttress his arguments in his letter to me dated 24 April 1995. Please see the enclosed the copy.

Tomorrow afternoon at the Northern District Court I will need to attend a hearing, where I am supposedly being prosecuted for criminal trespass. Kittiwat the plaintiff's

attorney in the Family Court, is also participating with the attorney from the Public Prosecution Department in prosecuting me for trespass.

It maybe that in actuality I am being prosecuted for my opposition to bigotry, my belief in American constitutional guarantees, equality before the law, due process, and the fact I am a practicing Catholic.

Plus the fact that I served my country in the United States Marine Corps in the Republic of Vietnam. Also too I may add, so did parts of the Royal Thai Army.

I would appreciate Mr. Bennett that the US Embassy inquire into what I have described in this letter, namely the Family Court, and the Northern District Criminal Court.

I find it rather difficult to believe that my rights under Thai law are being protected. Especially now that Thailand has a new constitution, that reflects a lot of what I believe and which I said so, in my letter to my daughter in Florida.

Thank you,

Sincerely yours,
"s/Joseph W. Southern"
Dr. Joseph W. Southern

PS. Rujira, the new attorney quit. I don't know why, other than what he said in his letter, which was misdirected to the plaintiff's residence. My daughter Catherine gave me this letter, this past Sunday morning, when I was picking up all three children for Mass and religious instructions at Holy Redeemer Catholic Church. The letter appeared to be open and then closed.

Battery C
Scores 133
By SSgt. Don O'Neal

DANANG----In recent months U.S. Marines fighting in Vietnam have been inflicting heavier casualties on the enemy. One major reason for this increase is artillery support.

However, the use of supporting artillery is only as good as the men who man the big guns. That's where Btry C, 1st Bn.,11th Marines, 1st Mar. Div. known as "The Professionals", the men of Btry. C, are adding color and fame to their unit name.

Charlie Battery sits atop Hill 55, home of the 1st Marines. The unit's six 105mm Howitzers have been on Hill 55 since August and during that time they have put a crimp in another Charlie's style. The other "Charlie" being the nickname American fighting men have tagged on the enemy soldiers they encounter.

Battery "C" is commanded by 1st Lt. Joseph Southern (Miami).

Since Nov 1. 1, 1969, the battery has accounted for 133 confirmed enemy killed.

"My men know how important accuracy is. We stress read-backs. They know errors are costly and often dangerous," Lt. Southern explained.

A read-back is a system by which the gun is checked and double checked prior to firing. When a call for fire is received at the Fire Direction Center, it is relayed to the guns selected to fire the mission.

Once the gun has been set and the charges prepared, the gun commander checks his gun and reads back the firing data directly from the instruments on the gun. If any discrepancy exists, it is caught before the round is fired, not afterwards.

"Read-backs take a little more time, and we get calls to hurry-up, but I'd rather be right than fast," stated Southern.

SEA TIGER
January 30, 1970

TO: Ambassador William H. Itoh
American Embassy
Bangkok, Thailand

FAX: 011-66-2-205-4499

FROM: Dr. Joseph Southern

FAX: 1-305-893-1468

DATE: November 10, 1996-Sunday

Dear Ambassador Itoh:

Enclosed is the Final Judgment of the Dissolution of Marriage of November 5th from the Circuit Court of the 11th Judicial Circuit, Dade County Florida.

As noted in paragraph 3 I have been awarded custody of all 4 of my children, 3 of whom are in Thailand, and currently with my ex-wife, a Thai national.

I arrived back in Miami on November 2nd, and expect to return to Thailand about November 21st.

I am currently having an original copy of the final judgment certified by the Florida Department of State.

I will then go to Washington, D.C. for additional certifications at the US Department of State, and then the Royal Thai Embassy, prior to hand-carrying the final judgment back to Thailand.

Once in Thailand I will turn over the certified final judgment to my Thai attorney, Suphachai Jaismut, who will then present it to the Thai court for the purpose of my obtaining custody of my 3 children in Thailand.

Once having custody, my youngest daughter Catherine, will be sent after completing the 5th grade in Thailand, in April 1997, to Miami, to reside with my mother and her older sister, to attend a Catholic primary school.

My Thai ex-wife, is still in the Thai court with her divorce petition, not yet having obtained a final judgment.

Thank you

"s/Joseph Southern"

TO: Mr. William Wharton
Office of Passport Policy and Advisory Services
Department of State
Washington, D.C.

FAX: 001-1-202-955-0230

FROM: Dr. Joseph Southern
Bangkok, Thailand

FAX: 66-2-275-0119

DATE: March 21, 1997

Per Mr. Greenberg's request of the American Services Section US Embassy Bangkok this afternoon, I have enclosed a copy of a Final Judgment of Dissolution of Marriage, whereby I have been awarded custody of all 4 of my children.

Currently three of my children are in Thailand, specifically those children who are named on the enclosed certifications dated November 22, 1995, indicating they are holders of US passports.

My oldest daughter, Aileen, is a high school sophomore in Miami, and resides with my mother, Mrs. Mary F. Southern in North Miami (tel: 1-305-893-1468).

Last November 21st, while I was I Washington, D.C. visiting my sister (my sister is with the Peace Corp's IG office) I had stopped by your office and spoke to Mr. Eli Bizic.

The attorney who represented me in Miami was Mr. Fred E. Glickman, tel: 1-305-670-0987/fax: 1-305-670-1450.

My attorney in Thailand, Mr. Suphachai Jaismut, was in Washington D.C. this week attending a seminar at the J.W.

Marriott on Pennsylvania. I believe Suphachai may have already left Washington, D.C. for his return trip to Bangkok.

Because of this importance of this fax to my children and I, I would appreciate acknowledgement of this fax upon receipt.

Thank you

"s/Joseph Southern"
Dr. Joseph Southern

FAX ***DATE*** *07/31/97*

Number of pages including cover sheet 1

TO: Mr. William Wharton
Office of Passport Policy
And Advisory Services
Department of State
Washington, D.C.

FROM: Dr. Joseph Southern
Bangkok, Thailand

Phone

Fax Phone
01-1-202-955-230

Phone
66-2-275-0110 ext. 1508
Fax Phone
66-2-275-0119

CC: Ambassador William H. Itoh

REMARKS: ☒ ***Urgent***

Dear Mr. Wharton:

On March 21st of this year, I had sent to you, a fax along with a final judgment of Dissolution of Marriage from an American court, whereby I was awarded custody of all four of my children.

Three of my children are in Thailand. My three children's passports are missing, and therefore I would like to apply for new US passports for my three children. Mr. Charles Bennett of the US Embassy in Bangkok is handling my request. Earlier this year Mr. Bennett had sent an advisory request to your office about this matter. He is on home leave and will

not return until August 22nd. And according to other USEMB staffers only Mr. Bennett would have any knowledge of any response, if any to his request.

It has been 4 months, and I have heard nothing about it from Mr. Bennett, or your office. I am sure you would agree we need to move forward on this matter.

Therefore Mr. Wharton when can new US passports be issued for my three children in Thailand?

Please fax me directly ASAP with your answer, with a copy to Ambassador Itoh's office.

Thank you

With best regards

Dr. Joseph Southern

FROM: "Harris, Louis B" <HarrisLB2@state.gov>
To: "Joseph W Southern" <southern@mozart.inet.co.th>
Cc: "Mayer, Paul O (Bangkok)" <MayerPO@state.gov>
"Fleming, William D"
FlemingWD@state.gov
"Sindelar, Jocelyn M" <SindelarJM@state.gov>
Subject: RE: Questions Re: The Southern Children in Thailand
Date: Mon, 10 Jul 2000 17:56:47-0400
X-Mailer: Internet Mail Service (5.5.2448.0)

The answers to your questions are as follows:

Q1. True

Q2. All the court orders we reviewed restate the Thai court's jurisdiction.

Q3. We have no specific information regarding notice of service of process beyond the statement in first paragraph of the order.

Q4. The Florida order was received on March 24, 1997.

-----Original Message----
From: Joseph Southern
[mailto:southern@mozart.imet.co.th]
Sent: Saturday, March 18, 2000 11:05 PM
To: Lou Harris <Harrislb@state.gov>
Subject: Questions Re: The Southern Children in Thailand

Mr. Harris:

QUESTION 1.

Is it true or not true, that the only documentary evidence used to arrive at the conclusion in the 23Feb2000 cable that 1) the Thai mother has custody , and 2) an order is needed from the Thai court, or the agreement of the children's mother before US passports can be issued for my three children, was the July 30, 1999 Thai court order?

QUESTION 2.

What is your understanding of how or why the July 30, 1999 Thai court order was issued?

QUESTION 3.

What is your knowledge of the service of process that was conducted for the family action summons and divorce petition from the Florida court to the Thai wife respondent?

QUESTION 4.

Exactly what did the Department of State in Washington receive the Fla decision?

Thank you

Dr. Joseph Southern

Have you read the Fla decision?

From: "Sindelar, Jocelyn M" <SindelarJM@state.gov>
To: "southern@mozart.inet.co.th"
<southern@mozart.inet.co.th>
Cc: "Mayer, Paul O(Bangkok)" <MayerPO@state.gov>
Subject: RE: CI: Southern's Kids
Date: Wed, 15Mar 2000 16:27:54-0500
X-Mailer: Internet Mail Service (5.5.2448.0)

Dr. Southern

The Office of Passport Legal Division-(Policy, Planning and Advisory Services) confirmed that they have on file a complete copy of the Nov.5,1996 Final Judgment of Dissolution of Marriage issued from the 11th Judicial Circuit Court, Dade County, Florida. If you have any questions regarding the Department's final decision on the denial of passport issuance for the Southern's kids in Thailand, please address it to: Sharon Palmer-Royston

Chief-Legal Division
CA/PPT/PAS
Fax No. (202) 955-0230
111-19th St. NW, Suite 260
Washington, D.C. 20524

Thank you

Jo M. Sindelar
Citizen Services Specialist
Office of Children's Issues
Department of State
Tel. No. (202)647-2692

TO: Paul O. Mayer
Consul and Second Secretary
Chief of American Citizen Services
US Embassy-Thailand

FROM: Dr. Joseph W. Southern
Father of Catherine, Sean, and Michael Southern

SUBJECT: English Translation of July 30, 1999 Thai Family Court Decision Re: Visitation

Note: Paul Mayer requested an English translation of this decision from me on January 10, 2000 when I telephoned him at the American Citizen Services, U.S. Embassy on January 10, 2000 at 1:20 PM.

DATE: January 14, 2000

Dear Paul:

Enclosed is the English translation of the July 30, 1999 decision from the Thai Family Court.

Here it is now the year 2000, over three years after I awarded custody by an American court for three solely American children, and still my children are rotting away in Thailand.

I envy the rapidity with which Janet Reno swung in action for the benefit of Elian Gonzalez's father, versus how long it has taken my government, the same government that I fought for in the Republic of Vietnam as a Marine officer, to come my assistance.

Al of this started over 5 years ago because I defended the right of my adopted daughter's right (a daughter from the other party's first marriage) to remain in the United States to

continue her education. She, Aileen, by the way is also a US citizen.

With my three children Catherine, Sean, and Michael then being taken hostage, and then the other party and her lawyer then proposing in court, that if Aileen returns to Thailand for a certain period, I could get Catherine, then later all three.

The other party and her family were unable to accept that Aileen who's biological parents were Thai, refused to return to Thailand, since she did not regard herself as Thai, but what she really is, an American.

I petitioned the Thai Family Court in May 1999 requesting that the court enforce my right of visitation as so stated in their decision of December 1998.

I attended the first hearing in June without a translator, since all parties concerned could speak English.

The court refused to proceed any further unless I obtained a translator. So I obtained as a translator a Thai friend of many years. Both he and I attended the University of Minnesota at about the same time.

I soon alienated this friend, when at the first hearing that we attended together. I brought in a copy of the Florida statutes, where it so stated in paragraph 61.134 Custody and support of children; visitation rights; power of court in making order, 4 (c) When a custodial parent refuses to honor a noncustodial parent's visitation rights without proper cause, the court may award the custody or primary residence to the noncustodial parent.

My translator friend warned me I could be arrested, which was then changed to being fined because I was using the

Florida statutes for the dissolution of marriage to support my argument for visitation.

In accordance with Black's Law Dictionary visitation means right of access to my children.

Which is what I attempted to exercise on March 14, 1999, which resulted in my being arrested the following Sunday on March 21st, and spending almost a week in the Remand Prison.

I had walked onto the other's party's family property on March 14, 1999 in an attempt to get Catherine released, so that she can attend Mass with me and her two brothers.

Visitation is not what I was getting, and neither is what I am now getting.

In the enclosed July 30th decision, the female judge is confused as to what visitation means. In her understanding of visitation it means me going to the gate and sticking my hand through the gate and touching my children's head.

That is not visitation. Visitation is access, and access means my children leaving the house and spending time with me. Which is not happening.

Also in this decision it implies that my children's testimony was freely given in court. It was not. It was coerced.

When my son Sean refused to agree with the other party's testimony insistence that he had no time to spend with his Father on Sunday. She lashed out at him in front of the judge's bench, causing my 11 year son to break down and cry. All of this in full view of the female judge, who said nothing.

I leaned over and held my son, and told him it was all right. As for Michael he was coerced in his testimony. He just looked down and mumbled something, when questioned by the judge.

As for Sunday activities, that is a damn lie. A number of times on Sunday morning I went to the house where my children are being held, and was told they were gone. When in fact all that was gone was the other party's car.

One Sunday morning I went to the house and saw the other party getting into her car in the soi, by herself, and then rang the bell, with no answer. My children were in the house, but were not allowed to come to the gate.

I returned later several times and asked my children if they were in the house, and they said yes.

Now the other party and her family have dropped the pretense of Sunday morning activities, and when I go to the house on Sunday. My children are there.

I go to the front gate of the house about every day to see my children, this about 5:00 PM.

On Sundays I go in the morning to determine if I can get any children out.

After the July 30th decision I have had only one son for a few Sunday's. A number of times I was told by either Catherine or Sean that I would have either 1-2 children, and then when I went to the house on a Sunday morning no children were released.

This July 30th decision just like the country is a joke. In 1998 Thailand was ranked 59th on the UN Human Development Index. It is now 67th.

And the other party and her family just can't figure out why Aileen does not want to return.

As for the statement in the July 30th decision about my expressing contempt, they don't need to do that. They are more then capable of generating that by themselves with their actions.

These people including the judge should have the M'Naghten Rule applied.

The M'Naghten Rule is a test to determine insanity.

The M'Naghten standard is applied to determine if the defendant had the sufficient mental capacity to know and understand that what they did was wrong, and a violation of the rights of others.

I raised the issue of my arrest on March 21st in court, and in fact showed the judge my prison card. What I got from the female judge and the party's attorney was a smile.

Lila Ben Deba, 09:29 PM 8/8/00 + REQUEST TO NCMEC TO DETERMINE

To: Lila Ben Debba <lbendebba@ncmec.org.>
From: Joseph W. Southern <southern@mozart.inet.co.th>
Subject: REQUEST TO NCMEC TO DETERMINE THE WHEREABOUTS OF MY 14 YEAR OLD DAUGHTER CATHERINE IN THE UNITED STATES
Cc:"Sindelar,JoceylnM<"SindelarJM@state.gov>
"McGahuey, Ann B" <McGahueyAB@state.gov> "Schuler, James L<SCHULERJL@state.gov>
Bcc:
Attached:

Dear Ms. Ben Debba:

Your organization was referred to me by Jim Schuler of the Children's Issues Office, Department of State, Washington, as a possible resource to locate my daughter CATHERINE ORAWAN SOUTHERN age 14, date of birth 22Oct85,Nationality:United States of America, passport number 701598033, Social Security Number 217-31-7647.

My daughter left Bangkok Thailand on EVA Airways flight BR 012 on August 5, 2000,Saturday at 1215 hours. Arriving Los Angeles via Taipei on EVA Airways flight BR 212 on August 5, 2000,Saturday at 1540 hours.

Just to obtain this information I started telephoning at about 0130 hours this morning, 8Aug the local Bangkok international airport. I then resumed telephoning at 0630 and after 35 telephone calls to local airlines and the INS in the US, I was able to obtain my daughter's flight information from Bangkok to Los Angeles.

(.....)

(.....)

I believe Catherine is being sent to the Chicago area to reside with the ex-wife's sister and brother-in-law. Their names are Alfred and Nuchanart Ven Den Bosch. Alfred is a Belgian national and permanent resident of the US. Nuchanart is his wife, and I am not sure of the status of Nuchanart, who is a Thai national.

I first learned from my 12 year old son Sean, from a note written by Catherine, that she was going to New Zealand to continue her education. I was given this note this past Sunday morning August 6 at ca. 0915 through a gate. I went to the house in Bangkok in an attempt to take my three children to Mass at Holy Redeemer, and to spend the day with me.

I asked to see Catherine. Sean said she was not in the house. I asked Sean if Catherine was forced to write the letter. He said yes. (.....

.....)

Last week 2August from Bangkok I called Ms. Ann McGahuey and in a conference call with Jim Schuler of the Children's Issues office learned that the ex-wife had applied for a US passport for my daughter Catherine. Up till this moment I was under the impression from a letter from Paul Mayer of the US Embassy in Bangkok, dated July 19th, she was applying for three US passports for my three children.

It was not Until 2 August that I learned from Ms. McGahuey and Mr. Schuler that the ex-wife had applied for one passport for Catherine to go to the United States. But according to the note from Sean on August 6, Catherine was going to New Zealand.

So on Monday, August 7, I went to the US Embassy and obtained a copy of Catherine's US passport, and then walked down the street to the New Zealand Embassy and met with

Ms. Julia Baker of the New Zealand Embassy. I learned from the New Zealand Embassy there was no evidence of Catherine going to New Zealand.

I showed to her a copy of Catherine's US passport and certified copy of a Final Judgment from the United States for the custody of Catherine, Case No. 96-19126 FC 16, In the Circuit Court of the Eleventh Judicial Circuit, In and For Dade County, Florida, November 5, 1996. Besides Catherine I also received custody of Aileen Southern, her daughter from her previous marriage to a Thai national. Aileen is also a US citizen and is currently in the United States Air Force at Lackland Air Force Base, Texas. And besides Catherine and her sister Aileen, I also received custody of Sean and Michael Southern, their younger brother's and my two sons.

My attorney is Fred E. Glickman, 508 Dadeland Towers North, 9200 South Dadeland Boulevard, Miami, Florida, tel: 1-305-670-0987 and fax: 1-305-670-1450.

The limited duration US passport was issued at my request to the Department of State to ensure enforcement of the US judgment.

After midnight, early Tuesday morning, I learned from INS that Catherine entered the United States at LAX on August 5, 2000, Saturday.

I am requesting from NCMEC that my daughter Catherine be located as quickly as possible. Assuming she is in Illinois, I have already contacted a law firm in Illinois so that the Fla judgment can be enforced in Illinois. Once it is enforced I will have her relocated to live with a member of my family so that she can continue her education in the United States. Thank you.

With best regards, Dr. Joseph W. Southern

Date: Wed. 16 Aug 2000 09:46:46-0400
From: "Leila Ben Debba" <lbendebba@ncmec.org>
Organization: National Center for Missing and Exploited Children
X-Mailer:Mozilla 4.61 [en] (WinNT; U)
X-Accept-Language: en
To: Joseph W. Southern <southern@mozart.inet.co.th>
Subject: Re: ORAWAN SUWANNACHINDA ON EVIDENCE AVAILABLE TO ME SEEMS TO BE IN THAILAND

Joseph,

I understand your frustration with the US Embassy at this point in time, nevertheless, I suggest that we stop all contact with them as they will be of no use to us. Through our project alert here at the center I was given the authorization to conduct surveillance on the address in Chicago as well as Florida which I why I needed the photos. I am now taking charge and will be coordinating with the State Department if I think they can assist. Given that Catherine is now in the US, NCMEC is more experienced and has more resources available than the USSD.
I will initiate contact with the Embassy if I believe it is to be beneficial to the case.
I will keep you advised throughout the day as to my progress.
Take care.
Leila

Note: On August 16, 2000 I e-mailed to Ms. Ben Debba a .jpeg file attachment of two photographs of my daughter celebrating her 12th birthday in October 1997 in my apartment with her two brothers.

Date: Thu 17 Aug 2000 15:34:07-0400
From: Leila Ben Debba <lbendebba@ncmec.org>
Organization: National Center for Missing & Exploited Children
X-Mailer:Mozilla 4.61 {en} (WinNT; U)
X-Accept-Language:en
To: Joseph W. Southern <southern@mozart.inet.co.th>

Joseph,

Two Project Alert agents have been assigned to your case one in Florida and one in Illinois to post surveillance on the addresses we have. I have also requested a student search, so that if she is being registered in school we'll know asap.
Take care.

Leila

Note: I received a telephone call in Bangkok from Ms. Ben Debba of NCMEC at 4:05 AM on August 24, 2000, a Thursday, informing me that my daughter Catherine had been located in Winter Haven, Florida under an assumed Thai name.

Mayer, Paul O

From: Sindelar, Jocelyn M
Sent: Wednesday, August 16, 2000 3:17 AM
To: Mayer, Paul O (Bangkok)
Subject: (BLACKED OUT BY US EMBASSY)

Dear Paul:

(BLACKED OUT BY US EMBASSY.....)
(BLACKED OUT BY US EMBASSY.....)
(BLACKED OUT BY US EMBASSY.....)
(BLACKED OUT BY US EMBASSY.....)

Anyway, I am responding to several issues you've raised:
1. Leila Ben Debba (NCMEC-International Case Coordinator for Asia-703-837-6224) is the point of contact in all matters regarding Catherine's whereabouts and perhaps domesticating the Florida court order in Illinois.
Dr. Southern should be advised that ACS-Bangkok's involvement at this time is very minimal and that he needs to contact NCMEC directly or CI (that would be me) if he can not get through to NCMEC.

2. Leila was to call Dr. Southern tonight and explain to him that ACS-Bangkok has no role in locating his daughter in the States. NCMEC has now been tasked to do that and is currently working with law enforcement people to have Catherine's name entered in NCIC. You may advise Dr. Southern that Catherine's name has now been entered in the "Student Locator List"-across the nation.

3. Leila was also going to call Legat (BLACKED OUT BY US EMBASSY). There are provisions in the 1993 Federal Crime Act (Sec 1204 of USC Title) [protecting Dr. Southern's lawful exercise of his parental rights (read: he is being denied access to his daughter; note that his parental

rights have not been terminated). The issue is not whether the daughter departed Thailand voluntarily or not, but rather "access" of the father to his daughter.
Leila is to discuss this with Legat and "define" Legat's role in NCMEC's efforts in assisting Dr. Southern.

4. The 40 some page document that Dr. Southern submitted was not a court order. I would reiterate CI's position-and that is---Department will deny issuance if Dr. Southern submits a "superseding court order" from the court of competent jurisdiction. I will be the point of contact once passport applications on Sean and Michael are received by this office. Please advise applicant parent that the customary 30 day waiting period (from date of receipt of the passport apps) will apply before Department can render a decision.

Paul:
1. Please note that Dr. Southern has switched residency to Woodbridge, VA (vice Florida)- this was news to me. Based on his residency status, a whole slew of services are available to him and NCMEC is willing and happy to assist-it may not be as immediate as Dr. Southern expects.

Hope the above is helpful.

Yours faithfully,

Jo

Dr. Joseph W. Southern, Apt 1508, 209
Rachada 17, Rachada Pisek Road, Bangkok
10320 Tel: 275-0110 Ext 1508, Fax 275-0119
Mobile 286-0590
Email: southern@mozart.inet.co.th

Fax

To: Office of Legal Attaché **From:** Dr. Joseph W. Southern

Fax: 254-1172 **Pages:** 11

Phone: **Date:** 08/09/00

Re: Request to the FBI to Locate My Daughter in the United States

☑ **Urgent**

Dear Office of Legal Attaché:

I am sending this fax for the purpose of requesting your assistance in locating my 14 year old daughter who is somewhere in the United States.

Enclosed is 1) a US final judgment for her custody and 2) a copy of an email sent to National Center for Missing and Exploited Children. Thank you.

"s/Joseph Southern"
Dr. Joseph W. Southern

lbendebba@ncmec.org, 08:34 PM 8/14/00, THE NATIONAL CENTER FOR MISSIN

To: lbendebba@ncmec.org
From: Joseph W. Southern <southern@mozart.inet.co.th.>
Subject: THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN (NCMEC) REQUEST TO DR. JOSEPH SOUTHERN, THE FATHER OF CATHERINE SOUTHERN, TO HAVE HIS DAUGHTER CATHERINE ENTERED INTO THE NATIONAL CRIME INFORMATION CENTER (NCIC) COMPUTER AS A MISSING CHILD AT THE FBI OFFICE AT THE US EMBASSY DENIED BY THE US EMBASSY BANGKOK.
Cc: fl_governor@eog.state.fl.us,
bob_graham@graham.senater.gov, connie@mack.senate.gov,
Charles_Robb@robb.senate.gov,
jesse_helms@helms.senate.gov
Bcc:
Attached:

Dear Ms. Ben Debba:

Your request to me in Bangkok of the early morning of 11Aug, Saturday, via telephone from NCMEC, Alexandria, Va to have my daughter Catherine Southern entered into the NCIC computer as a missing child was denied by an FBI agent in the Office of Legal Attaché, US Embassy Bangkok, US Embassy Bangkok. The agent telephoned me at 1540 hours Saturday 11Aug2000 and informed me she was unable to comply with my request in accordance with instructions she received from the Chief of American Citizen Services, US Embassy, Bangkok.

(.....
.....
.....
.....)

Your request to me was in accordance the Missing Children's Act of 1982 (P.L 97-292;28 U.S.C. 534 that provides for the entry of the names of missing children into the National Crime Information Center(NCIC).

Also in conjunction with this act the National Child Search Assistance Act (P.L 101-647; 42 U.S.C. 5779, 5780) requires federal, state, and local law enforcement to enter reports of a missing child less than 18 in the National Crime Information Center (NCIC).

I had contacted the US Embassy-Bangkok shortly after you called me at about 0200 11Aug, and asked Marine Security if an FBI agent was on duty at the Embassy at that time. He said no and suggested I call later in the day about 0900.

At 1100, 11Aug I telephoned again and via Marine Security spoke to US State Department officer Mr. Garth Hancock, requesting his assistance in having my daughter Catherine Southern, age 14, entered as a missing child into the NCIC computer.

It was then at 1540 hours, 11Aug2000, Saturday that the FBI agent with the Office of Legal Attaché telephoned me saying that she was unable to comply with my request, in accordance with instructions she received from the Chief of the American Citizen Services.

(.....
.....
.....
.....)

Just to give an idea as to what kind of people that I have been dealing with in this country concerning my children, the Thai court attempted to pull off a Panmunjom Korean War POW exchange at a hearing on June 27, 1997. On the same day at

0900 my Thai attorney excitedly telephones me, asking me to come to the Thai court for a 1330 hearing. I attend the hearing, and what I was told was if Aileen returned to Thailand for three months, they would release Catherine so that she could go to the United States.

I already had custody of Aileen in accordance with the Florida judgment of November 5, 1996. I rejected their offer. Why disrupt my daughter's education in Florida, which at the time she was taking additional mathematics courses, so that she could continue into higher math course in high school in the fall. Unfortunately my Mother died on September 29, 1997.

(.....
.....
.....)

Thank you

Dr. Joseph W. Southern
Apt 1508
209 Rachada Pisek 17
Rachada Pisek Road
Bangkok 10320
Tel:66-2-275-0110 ext 1508
Fax: 66-2-275-0119
Mobile 66-1-286-0590
Email: southern@mozart.inet.co.th

Miranda, Zoila I. (, 03:13 PM 1/22/03, ORDER TO POLK COUNTY SCHOOL BO

To: "Miranda, Zoila I. (COC)" <ZMRN@miami-dadeclerk.com>
From: Joseph W. Southern <southern@mozart.inet.co.th>
Subject: ORDER TO POLK COUNTY SCHOOL SYSTEM TO CORRECT CATHRINE'S NAME
Cc:
Bcc:
Attached

Dear Ms. Miranda:

I spoke to Wes Bridges last night and he has yet to receive the subject order. Though I realize that Monday was a federal holiday.

In my telephoning to Polk County last night I learned that Orawan Suwannachinda and her mother Sombat Suwannachinda were in Polk County at the time Catherine was enrolled in the Polk County school system. This would be about Sep-Aug 2000. Therefore it was Orawan Suwannachinda who enrolled Catherine in school in Polk County and not her aunt.

(.....)

Both parties also stated that Orawan Suwannachinda provided phone bills and electric bills to confirm she was a resident of Polk County. These bills were August 2000.

The staff member was surprised she does not live in Polk County and that Orawan Suwannachinda, in fact does not even live in the United States.

The person also told me that Polk County regulations forbid asking for a birth certificate from children born outside the

United States. I also told this person that I faxed to Wes Bridges last year in February documents confirming Catherine's identity. And that the school principal according to Wes Bridge's office had received these documents. Yet this person who is responsible for the school records has never received any of these records.

I had assumed up until last night's telephone call to Polk County it was Catherine's aunt who enrolled her in the Polk County school system.
(.....)

In August 2000 when I learned that Catherine was sent to the United States I contacted the National Center for Missing and Exploited Children (NCMEC) at the urging of a staff member in Children's Issues, U.S. State Department.

NCMEC located Catherine in Winter Haven, Florida. While NCMEC was in the progress of locating Catherine they obtained a passenger list of the flight that Catherine was on when she arrived in Los Angeles.

(.....)

NCEMEC asked me who were Orawan and Sombat Suwannachinda that were on the passenger list. I identified both parties.

NCMEC then informed me that they would request federal fugitive arrest warrants for both parties if they were on the flight. However NCMEC was not sure if they were really on the flight.

Catherine was initially enrolled in a middle school in Polk County, according to the telephone call last night as Catherine Orawan Southern. Then later her name was changed to Methinee Suwannachinda.

When Catherine was initially enrolled in the Polk County system no social security number was provided.

However the social security number is for Catherine Orawan Southern, not Methinee Suwannachinda.

The staff member also told me she does not like the Polk County school system regulation of not requiring birth certificates for children from outside the U.S.

It is difficult for me to understand how Polk County allowed this to happen. With best regards, Joseph Southern

---

Note: "Another party not with the school system initially provided this information." This party was Alfred Ven Den Bosch.

Note: At no time I was ever informed by the U.S. State Department or the U.S. Embassy in Bangkok that Orawan and Sombat Suwannachinda accompanied my daughter to the United States on August 5, 2000. Certainly Paul Mayer the Chief of American Services Section knew, since both women needed to obtain visas from the U.S. Embassy before their departure.

Note: My daughter Catherine requested via email to me on March 13, 2002 her social security number. I provided to her via an email her social security number on March 16, 2002. Amend. Compl. Attachments 38-39.

Note: On Catherine's U.S. passport application, date of issue August 4, 2000, there is no social security number. Her social security number at the time was and is 217-31-7647.

United States Department of State

Washington, D.C. 20520

September 24, 2002

TO WHOM IT MAY CONCERN

I , Vanessa D. Washington, Acting Chief, Records Services Division, Office of Information Management and Liaison, Passport Services Directorate, Department of State, certify that, as Acting Chief of the records Services Division, I am custodian of passport files.

I certify that the application that is listed below is a true copy of the document on file with the Passport Services Directorate of the Department of State:

1. Application for United States passport #701598033 issued to Catherine Orawan Southern on August 4, 2000 at the American Embassy in Bangkok, Thailand. This passport was issued for a limited three month validity and expired on November 3, 2000. **[Released in Full]**

Sincerely

"s/Vanessa D. Washington"
Vanessa D. Washington, Acting Chief
Records Services Division
Office of Information Management and
Liaison
Passport Services

VDW/cav

PRISM Image from PRISM Box:
00014849,Image:1273.Passport #: 701598033,Page 4,
PRISMFile: 11585755,Accession:59010001,Box: 2712

Mayer, Paul O
From: McGahuey, Ann B
Sent: Friday, August 04, 2000 1:13 AM
To: Mayer, Paul O(Bangkok)
Cc: Sindelar, Jocelyn, Schuler, James L.
Subject: RE: Southern cable – One final angle to ponder

Importance: High

Paul,

After extensive dialog between Dr. Southern and CI, he has agreed to post issuing Catherine a ppt which should be limited to 3-Months, repeat a limited validity ppt.

Ann

Ann B. McGahuey
CA/OCS/CI
L-127, SA-1
Washington, DC 20037
Tel: 202-663-2628
Fax: 202-663-2674

Note: With these documents that I received from the U.S. Embassy in Bangkok on October 15. 2002 I also received a copy of her U.S. passport application grommeted to the above document from Ms. McGahuey.

Ms. Patty Kennedy, 03:00 PM 7/16/03, Is the U.S. Department of Stat

To: Ms. Patty Kennedy<patty_kennedy@warner.senate.gov>
From: Joseph W Southern <southern@mozart.inet.co.th>
Subject: Is the U.S. Department of State Expected to Comply With the Law?
Cc:
Bcc:
Attached:

I was informed by the U.S. Embassy on May 28th here in the "Land of Smiles", Thailand, that my daughter Catherine returned to Thailand on May 23, 2003. My daughter did not leave the U.S. using a U.S. passport, but used a Thai passport.

Which was confirmed by the U.S. Embassy to me on June 4th . The U.S. Embassy did, in this same telephone conversation , confirm that the last U.S. passport she had, was a limited duration passport of 3 months. August 4, 2000 to November 3, 2000. It was limited duration passport at the suggestion of Children's Issues in August 2000, so that Catherine would remain in the U.S. Obviously now in theory.

In accordance with 8 U.S.C. 1185 (b) "....it shall be unlawful for any citizen of the United States to depart or enter, or attempt to depart from or enter, the United States unless he bears a valid United States passport."

The title of Section 1185 is a Travel control of citizens and aliens. Apparently 8 U.S.C. 1185(b) is new and revealing information to Children's Issues even though it seems to have been in existence since 1976.

The date I obtained from Haig v. Agee, 453 U.S. 280 (1981). Which is a U.S. Supreme Court decision.

On June 6th, I called Children's Issues in the U.S. State Department in Washington and asked Children's Issues why wasn't the Thai Embassy in Washington, D.C. not informed by Children's Issues or at least the U.S. State Department not to issue a Thai passport to Catherine.

I was told by Children's Issues that it was not their custom to do this. Children's Issues acknowledged there are no "exit controls" at its borders. Therefore CI knowing this why not contact the Thai Embassy to ensure that no Thai passport is issued.

On June 16th I phone the Thai Embassy in Washington, D.C. and was told that if they knew an American child in the United States, who was also considered to be a dual national, and who applied for a Thai passport, and was in the U.S. in accordance with a custody judgment, and the Thai Embassy was aware of the U.S. custody judgment, **they would not issue a Thai passport.**

Catherine's first Thai passport number H430175 was issued by the Ministry of Foreign Affairs in Bangkok. The Thai passport she used to leave the United States C574851 was obtained from Thai Embassy in Washington, D.C.

The old Thai passport H430175 was cancelled and a new Thai passport C574851 obtained. Yet the old Thai passport was still valid and could have been used to leave the U.S.
(.....)

When I filed suit for U.S. passport issuance for Sean and Michael last year in April, I did not expect the U.S. State Department to oppose it. Since in one of their cables they asked for a U.S. court to resolve the matter. Because of the U.S. State Department my daughter is now back in Thailand. If I were able to resolve the U.S. passport issue in the federal

court before May of this year I would not have to contend with three children in Thailand.

Surely CI must be aware of 8 U.S.C. 1185(b). Therefore why not contact the Thai Embassy informing them of their requirement to comply with U.S. law. In this case a Thai passport was used to violate U.S. law. (..... and therefore why did not the U.S. State Department contact the Thai Embassy to prevent the issuance of a Thai passport, since they have had the Florida judgment on file since March 24, 1997.
(.....)
With best regards, Joseph Southern

1508 209 Rachada 17
Rachada Pisek Road
Bangkok 10320,Thailand
Tel: 66-2-693-9885

Note: I spoke to Mr. Derek Walker at Children's Issues on June 6, 2003 at 9:55 PM about Catherine departing the United States using a Thai passport.

Note: On May 27th I telephoned Catherine, 4 days after her return to Thailand. She was extremely upset when I spoke to her, screaming and cursing over the phone.

Note: On June 4, 2003, a Tressa of the U.S. Embassy, Bangkok, acknowledged Catherine did leave the United States using a Thai passport.

Note: On July 25, 2000 Catherine attempted to use a Thai passport at the U.S. Embassy Bangkok under Methinee Suwannachinda to enter the United States. D.C. Scott a consular official denied the request.

Note: The International Parental Kidnapping Crime Act of 1993 makes it an offense for the removal of Catherine from the United States to Thailand. Since it was the intent to obstruct my parental rights under the Florida judgment. At the time I had custody of her as she was still 17 years old.

Weinstein, Laurie, 07:58 PM 1/27/03, State Cable #271482, Child

To: "Weinstein, Laurie" <Laurie.Weinstein2@usdoj.gov>
From: Joseph W Southern <southern@mozart.inet.co.th>
Subject: State Cable #271482, Child Custody: Honoring of U.S. and Foreign Court Orders in Passport Cases.
Cc:
Bcc:
Attached:

January 27, 2003-Monday

Dear Ms. Weinstein:

While going through my files I came across a copy of a cable that was given to me by Paul Mayer in February 2001.

The cable is titled 1991 State Cable #271482.The subject of the cable is: Child Custody Honoring of U.S. and Foreign Court Orders Overseas in Passport Cases.

(.....)

1. Effective immediately the department is applying the domestic policy regarding denial of passports to abducted minor children overseas worldwide as follows:

A parent with a U.S. or foreign court order of sole custody of a child may have the child's name entered into the department's namecheck system.

Should the non-custodial parent apply for a passport for the child, either in the U.S. or at an overseas post, the department will deny such application, except for humanitarian or emergency reasons relating to the welfare of the child or for direct travel to the United States.

2. Septel will follow with FAM change. All names of minor children for whom passport applications are made overseas should continue to be cleared with passport namecheck system. If a child's name has been entered in namecheck system, department will advise on how to proceed. (end text)

Eagleburger

What this cable is describing is what was done for Catherine. Her passport of August 2000 only allowed for direct travel back to the U.S.

Meaning the U.S. State Department is complying with the Florida judgment.

Which then leads to the next question what was the point of the Powell May 4, 2001 cable. When the department is complying with the Florida judgment as so indicated in this cable of February 2001.

Mayer, Paul O
From: Sindelar, Jocelyn M
Sent: Friday, February 16, 2001 11:05 PM
To: Yaowanee, Pisuthipot (Bangkok)
Cc: Mayer, Paul O (Bangkok); Stickles, Mary P(Bangkok); Walker, Derek L
Subject: Dr. Southern-Passport apps for Sean and Michael

Khun Tim:

Spoke with Dr. Southern today and advised him that he needs to complete new passport applications for Sean and Michael. May I request **you Khun Tim** to please mail (ASAP) the DSP forms (the brown ones) to him at this address:

Dr. Joseph W. Southern
Apt. 1508 – 209 Rachada 17
Rachada Pisek Rd.
Bangkok 10320

Dr. Southern is to bring in the completed forms, photos, supporting documents and the boys are to appear in person at the ACS office.

Please fax everything to us as soon as you get them –Attn: Derek Walker- Passport Custody Alert.

Kap khun maak kha- Jo

Jo M. Sindelar
Citizen Services Specialist
Office of Children's Issues
Department of State
Tel. No. (202)663-2631
Fax No: (202)663-2674

Mayer, Paul O

From: Sindelar, Joceylyn M
Sent: Thursday, March 01, 2001 11:07 PM
To: Walker, Derek L
Cc: Schuler, James L; Fleming, William D; Mayer, Paul O (Bangkok); Rowe, Leslie V(Bangkok)
Subject: Passport Issues for the Southern Children – (Sean Southern – DOB: 01/12/88; Michael Southern – DOB 06/21/89

Derek:

1) FYI – see below

Spoke with Dr. Southern today and advised him that he needs to complete new passport applications for Sean and Michael. May I request **you Khun Tim** to please mail (ASAP) the DSP forms (the brown ones) to him at this address:

Dr. Joseph W. Southern
Apt. 1508 – 209 Rachada 17
Rachada Pisek Rd.
Bangkok 10320

Dr. Southern is to bring in the completed forms, photos, supporting documents and the boys are to appear in person at the ACS office.

Please fax everything to us as soon as you get them –Attn: Derek Walker- Passport Custody Alert.

2) In my phone conversation with Dr. Southern two weeks ago, I explained to him that the 1997 replacement passport applications he had submitted for his three children were denied by Passport Legal – that decision was reflected in the cable (STATE 032790) sent by PPT/PAS on **02/23/00**.

3) Dr. Southern indicated that he wants the department to reconsider the matter. I proceeded to tell him that Department can not adjudicate based on the **old** and **"denied"** applications and told him the necessary steps he needs to take (see my e-mail to the FSN in Bangkok) in order for us to review/adjudicate the applications. (Note: Unless Dr. Southern could come up with a superseding court order to the 07/30/99 Thai Court order, or an agreement from the mother supporting his request for issuance – the applications will be denied).

4) For Bangkok: I have instructed Dr. Southern that ACS Bangkok requires physical presence of the children at the Embassy when applications are submitted/executed – is this true? Could you waive this requirement knowing fully well that the kids are residing with mom in Bangkok?

5) For Derek: Do you have any specific instructions for Dr. Southern other than what I have outlined above? He can be reached via e-mail at southern@mozart.inet.co.th – his phone number in Bangkok is 662-275-0110 ext. 1508.

Thanks –Jo

Jo M. Sindelar
Citizen Services
Office of Children's Issues

Dr. Joseph W. Southern
Apt 1508
209 Rachada 17
Rachada Pisek Road
Bangkok 10320, Thailand
Tel; 66-2-275-0110 ext 1508

FAX

To: Colin Powell
Secretary of State
Department of State
Washington, D.C.

From: Dr. Joseph W. Southern
Father of Sean and
Michael Southern

Fax: 001-1-202-736-7262 **Pages:**

Phone: **Date:** 02/28/01

Re: US Passport Issuance For My Sons Sean (age 13) and Michael (age 11) **cc:**

☑ **Urgent**

Dear Secretary Powell:

On February 16, 2001 the Office of Children's Issues authorized the issuance of US passports for my son's Sean and Michael Southern.

According to the copy of the e-mail sent by Ms. Jo Sindelar to Paul Mayer, Chief of American Citizen Services I was to

take my two son's Sean and Michael Southern to the US Embassy in Bangkok so that this could be accomplished.

Yesterday morning I stopped by my son's school to take them to the US Embassy. The school refused to release my two son's to me even after I submitted copies of e-mails from the US State Department informing me that my two son's need to come to the US Embassy with me.

The name of the school in Bangkok is Panjasap and their telephone number in Bangkok is 276-8636 or 277-2902.

I was told by the U.S. Embassy in Bangkok I was on my own on this one.

However the US Government was not its own in Vietnam where I served as an artillery FO and artillery officer from 1969-70 with the 1st Marine Division in Quang Nam Province.

Why do I raise the issue of my being a Vietnam Vet? Because in 1998 while providing testimony in the Thai court for the enforcement of the Florida judgment, whereby I was awarded custody of all four children, I was asked about my service in Vietnam with the US Marines by the opposing attorney.

This line of questioning was permitted by the Thai judge, who duly noted it in the testimony in his court that I was a Vietnam Vet.

I am requesting Secretary Powell that the US Embassy in Bangkok be contacted, so that when I return to my sons school, I can take my sons to the US Embassy for their US

February 28, 2001

passports, and that I be accompanied by one US consular official, plus one FBI agent from the US Embassy, and a senior Thai police officer, so that my sons can be released for the few hours it would take to execute their US passport applications at the US Embassy.

I will then return them to their school.

Thank you

Dr. Joseph Southern

Dr. Joseph W. Southern
Apt 1508
209 Rachada 17
Rachada Pisek Road
Bangkok 10320, Thailand
E-mail: southern@mozart.inet.co.th

Fax

To: Secretary Colin Powell
Secretary of State
Department of State
Washington, D.C.

From: Dr. Joseph Southern
Father of Sean and
Michael Southern

Fax: 001-1-202-736-7262

Pages:

Phone:

Date: March 17, 2001

Re: Ltr to Dr. Joseph W. Southern
From Mary B. Marshall, Children's
Issues, March 7, 2001
Issuance of US Passports for
Sean and Michael Southern

☑ **Urgent**

Dear Secretary Powell:

I understand Secretary Powell after reading your book, My American Journey, that you have high blood pressure, but in no way is this fax meant to exacerbate that condition, but Ms. Marshall needs to be reminded who she works for. Her salary is from the Treasurer of the United States, not the Treasurer of the Kingdom of Thailand.

Also too, her letter to me, in the upper right corner says United States Department of State, not Ministry of Foreign Affairs, Kingdom of Thailand. But from the contents of her letter it would seem it was first drafted at the Ministry of Foreign Affairs of Thailand, before it was sent to the Department of State for signature on Department of State stationary.

(.....
.....)

The above cited letter from Ms. Marshall to me has no applicability whatsoever to the issue concerning passport issuance for my sons Sean and Michael Southern. Because since March 24, 1997, the Department of State has had on file, a judgment for their custody, namely FINAL JUDGMENT OF DISSOLUTION OF MARRIAGE CASE NO. 96-19126 FC 16 IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT, IN AND FOR DADE COUNTY, FLORIDA, NOVEMBER 5, 1996.

This judgment is the law of the land, and the Department of State is legally obligated to comply with this court decision.

This court decision also provides the legal basis as to why last month on February 16, the Children's Issues Office agreed to the issuance of U.S. passports to me, as the legal custodian of Sean and Michael.

To reiterate, Sean and Michael's US passports are to be issued to me, as the legal custodian of Sean and Michael

March 17, 2001

I have enclosed a copy of this court decision. I have known for some time that the Department of State has classified my two sons as having been abducted.

Once I have these U.S. passports in hand my two sons and I will return to the United States to reside in Charlottesville, Virginia. My daughter Catherine will be recovered out of Polk County, Florida to join her two brothers in Charlottesville.

Besides the absence of any applicability of Ms. Marshall's letter to passport issuance for my two sons. There is a very disturbing attempt in her letter to condone state sanctioned abduction of my three children by the Thai's, so as to coerce me to coerce my daughter Aileen back to Thailand from the U.S. This has all been documented in numerous communications between me and the Department of State and the U.S. Embassy in Bangkok, as these attempts were made in the Thai court here in Bangkok in my presence.

Aileen is now in the USAF and is stationed at Shepherd Air Force Base with her husband, Airman Joseph Carter.

If anything is to come out of this case, which has gone on for over 5 years, is that the U.S. Congress will review and correct the Department of State's CFR's and Foreign Affairs Manual. So that no other country such as Thailand can exploit and abuse the weaknesses in the CFR's and FAM that allows the Department of State to be an accomplice in foreign state sanctioned abduction of American children

I am not sure if the Constitution of the United States of America is new and revealing information to Ms. Marshall,

but the preamble of the U.S. Constitution reads as follows: *We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the Blessings of Liberty to ourselves and out Posterity, to ordain and establish this Constitution of the United States of America.*

For starters the authority to establish the Department of State was derived from the U.S. Constitution, and as noted one of the purposes of the Constitution which launched the federal government was to "form a more perfect union" meaning that the U.S. Government was created by the states for the convenience of the states.

So rather than the State of Florida establishing a Department of State equivalent to the one in Washington, for convenience sake we decided to establish a federal government so that all 50 states can use one Department of State. Which is why Ms. Marshall has as part of her title United States Central Authority. She is really working for 50 states, and especially for this case, the State of Florida.

The authority for states to grant divorces and to decide matters of custody is derived from the U.S. Constitution. The U.S. State Department is not a court, and neither is Ms. Marshall a judge. The U.S. Constitution is preeminent over all other laws and cannot be violated by the U.S. Government.

By refusing to issue U.S. passports to me the father and legal custodian of Sean and Michael Southern, the Department of State is attempting to overturn a decision from the American

judiciary, i.e. the Florida judgment by employing a CFR i.e. administrative law.

In the American legal system neither the Congress nor the President has the power or authority to overturn decisions of the American judiciary. Which makes it slim to none that Ms. Marshall has the authority to overturn the Florida judgment, and slim left town over 200 years ago.

The CFR that Ms. Marshall referred to in her letter to me, is the bottom of the heap in the American legal system. What Ms. Marshall is committing falls under the Color of Law and Color of Office.

In Ms. Marshall's letter last sentence she states "Our office will continue to monitor the case and take appropriate action as required."

If we accept that as an accurate statement, then we must accept that she also is aware of the impact of the Thai custody order of January 29, 1996 had on my younger son Michael Joseph. It hospitalized him.

On February 5, 1996 after repeatedly telephoning days before, I was able to talk to Michael. He tells me over the phone he is sick. I was about 350 miles north of Bangkok at the time, establishing a field test for an American MNC client.

When I return to Bangkok on February 9th, Michael is still sick, and still in the house. I am able to go to into the house and hold m son. He is very warm from a fever. The Thai Mother of the Year didn't get around to hospitalizing him until February 12th.

March 17, 2001

Most likely Michael had a temperature before Feb 5th. Since all of this was reported in a 27 page e-mail attachment, that Jo Sindelar acknowledged receiving, therefore Ms. Marshall is very well aware of the correlation between the January 29, 1996 Thai custody order and Michael becoming ill shortly thereafter.

So why be so cavalier about it.?

As for the ex-parte order, yes very ex-parte. So ex-parte that ACS at USEMB should not have accepted it. ACS at the time was out of control. It had been hijacked by ACS Thai nationals with a political ax to grind, and the ACS chief at the time was a product of a "get a along, go along school of management."

Currently my two sons are not attending school, but are being held in a house in Bangkok at 1 Indramara 30, Bangkok, tel: 66-2-277-3733., and will not return to school until about May.

At this point my immediate objective is to get Sean and Michael's passport applications executed.

(.....
.....)

ACS at USEMB did call Panjasap and asked why my two sons cannot be released. Panjasap told ACS, according to what ACS told me was that I would be arrested if I attempted to take my sons out of the school. I then informed ACS about the International Parental Kidnapping Crime Act of 1993.

March 17, 2001

After I learned what Panjasap told ACS, I then visited Panjasap this afternoon and explained that any attempt by any Thai to prevent me from taking my two sons to the USEMB will trigger the above law.

Right now Panjasap is off the radar screen, since my sons are out of school until May.

(.....
.....)

Therefore Secretary Powell I am requesting that your office pull in the Thai ambassador to the US, and lets first convince him to cooperate. So that Sean and Michael are released from the house where they are at, and I can take them to the USEMB to execute their passport applications.

Note: I could not take Michael to the hospital because the Chief of American Services said I would be arrested for kidnapping. As it was I was arrested for trespassing and jailed on February 15,1996 when I went to the house to ask about my hospitalized son's medical condition. Amend. Compl. ¶¶ 38-41.

Note: Panjasap is the name of the school my sons were attending.

Note: In this fax to the Secretary (portions not shown) I suggested using the International Parental Kidnapping Crime Act. There has never been any acknowledgment to date by any member of he U.S. State Department that this act is a viable option.

Dr. Joseph W. Southern
Apt 1508
209 Rachada 17
Rachada Pisek Road
Bangkok 10320, Thailand
Tel: 66-2-275-0110 ext:1508
E-mail:southern@mozart.inet.co.th

Fax

To: Secretary Colin Powell
Secretary of State
Department of State
Washington, D.C.

From: Dr. Joseph W. Southern
Father of Sean and
Michael Southern

Fax: 001-1-202-736-7262 **Pages:** 2

Phone: **Date:** March 29, 2001

Re: Issuance of US Passports for Sean And Michael Southern

cc:

☑ **Urgent**

Dear Secretary Powell

On March 28th this past Wednesday, I went to the Foreign Affairs Police, at the National Police Headquarters for Thailand in Bangkok. To request their assistance in getting my two sons Sean and Michael released for the part of the day, so that I could take them to the US Embassy in Bangkok to execute their passport applications. I have been told by

Paul Mayer that before the passport applications can be executed, both of my sons must be physically present with me at ACS. My two sons are being held in a house at 1 Soi Indramara 30, Bangkok by a party of Thais. I received and so did Mr. Mayer an e-mail from Children's Issues informing both of us that my sons need to come to ACS-USEMB to execute their passport applications.

According to a Police Captain Ruj who I met, assistant to Police Major General Somchart, head of the Foreign Affairs Police, the USEMB will need to draft a letter to be submitted to the Ministry of Foreign Affairs. The next step after that is for this request to go to the attorney general of Thailand, and then to a Thai judge ordering the parties to release my two sons. I assume then that the Thai police will go to the house with the order.

The next morning, March 29th Thursday, I telephoned Paul Mayer of ACS-USEMB who told me that I will need to contact Washington before he contacts the Ministry of Foreign Affairs in Thailand concerning my request. Mr. Mayer will not proceed any further until he receives instructions from Washington concerning this matter.

Therefore Secretary Powell I am requesting that your office inform the appropriate person at State to inform the USEMB to initiate whatever steps is necessary to have my two sons Sean and Michael released so that they can execute their passport applications.

I am not sure, and maybe Captain Ruj is not sure, if going to the Thai Ministry of Foreign Affairs, and then the attorney general, and then a Thai judge is more or less effective. Versus a telephone call from Captain Ruj to the Suttisan police station. Captain Ruj was about to call the Suttisan

police station about my sons, until I stopped him and said that Sean is in a summer school, and is gone from the morning till late afternoon. While Michael does not return from a camp until Saturday, March 31st.

Therefore in order for both sons to taken out of the house means going to the house in the morning before Sean goes to school.

The best case scenario is for the parties holding my two sons, is for them to accept the situation and to fully cooperate, from the time my sons leave the house to execute their passport applications, to the day they leave Thailand, hopefully ASAP. They would be returned to the house after passport execution. But then the parties in the house would need to understand, that Sean and Michael will go home to America, once the passports are issued.

Thank you,

Dr. Joseph W. Southern
Father of Sean and Michael Southern

Dr. Joseph W. Southern
Apt 1508
209 Rachada 17
Rachada Pisek Road
Bangkok 10320, Thailand
Tel: 66-2-275-0110 ext:1508
E-mail:southern@mozart.inet.co.th

Fax

To: Secretary Colin Powell
Secretary of State
Department of State
Washington, D.C.

From: Dr. Joseph W. Southern
Father of Sean and
Michael Southern

Fax: 001-1-202-736-7262 **Pages:** 2

Phone: **Date:** April 23, 2001

Re: Issuance of US Passports for Sean And Michael Southern Re: Ltr, Patrick H. Hegarty, March 30, 2001

cc:

☑ **Urgent**

Dear Secretary Powell:

While I appreciate Mr. Hegarty's letter of March 30th, as well now knowing that there is an abduction division, which I did not know before, his letter generated more questions than

answers. Which I will address in this fax. I also telephoned Mr. Fleming, and he returned my call, and I filled him on the details. But again more questions than answers. Mr. Hegarty's letter was the first written confirmation that my two sons have been abducted. What I had before were just words on the phone.

(.....
.....)

DEPARTMENT OF STATE AND THE SOUTHERN CHILDREN: To recount the problems that I have had for over 5 years since January 1996 in attempting to renew my children's passports, as well as eliciting the department's assistance in having the Florida judgement enforced in Thailand. So that these passports can be issued, and my children returned to America, have not imbued me with a whole lot of confidence in the department's ability or willingness to forcefully represent the American parent so that US judgements are enforced in foreign countries and the American children returned home. Maybe Thailand is an exception, but then the Joseph Cooke case tells me otherwise. For example over 3 years later, the Department of State finally acknowledged to me on July 10, 2000, that it received on March 24, 1997 the Florida judgement from me. I faxed the judgement to them from Bangkok on a March 21, 1997, a Friday. **WHY?** Since the department was made aware on March 24, 1997 that I had custody as of November 5, 1996, **WHY WEREN'T PASSPORTS NOT ISSUED AS SOON AS THE DEPARTMENT RECEIVED THE FLORIDA**

JUDGEMENT? On December 4, 1998 the Thai court issued it's own judgement not fully in compliance with the Florida judgement. From November 5, 1996, when the Florida judgement was issued to December 4, 1998 when the Thai judgement was issued, there was a window that allowed passports to be issued. **WHY WASN'T THIS NOT EXPLOITED BY THE DEPARTMENT?** Assuming that I had not filed for a divorce and custody in the Florida court, but allowed the Thai court to arrive at it's decision, quite likely the Thai court would have given custody of Aileen to her Thai mother in Thailand. Because at the time Aileen was also a Thai national. At the time Aileen was residing in the United States, at North Miami, Florida, with my mother, while attending high school. But Aileen was also a US citizen, a US passport holder, who was born in the US. One very likely scenario, would be a Florida state judge acting on a petition to prevent the enforcement of the Thai judgement. But what if INS on Washington's instructions chose to ignore the Florida order preventing Aileen's removal to Thailand. Since that is what the US State Department is now doing by not issuing passports for Sean and Michael. It is not complying with Florida state law. In Sean and Michael's case they are US citizens only. What then? Is it possible that INS would have attempted to storm my mother's residence in North Miami to remove Aileen to return her back to Thailand? Which would have meant that the INS agents who entered my Mother's property violated Florida state law could have been charged with trespassing and attempted abduction, and quite possibly arrested and cuffed by the Miami-Dade police, if they did not remove themselves immediately upon order of the Miami-Dade police. Local jurisdiction protecting Aileen in my Mother's home, with INS agents off the property and in the street? With Aileen being taken to and from high school on a daily basis to prevent from being abducted by INS agents? But nonetheless

the inertia of the State Department's response in this instance brings to mind a Jurassic denizen dozing in the mud. You kick it in the tail and two years later the sensation reaches the brain. In this case, three years later. Then in a letter dated March 1, 2001 from Jo Sindelar I learned that the US Embassy could send observers to the hearings to ensure that my arguments received due attention. Of all the telephone calls and personal visits to ACS that I made from May 1995 to the present this was never stated to me. I only learned this on March 28, 2001, from a letter from the Department of State dated March 1, 2001. **WHY?** On March 28th I received a letter addressed to me dated October 30, 2000 from Jo Sindelar. I never saw this letter until now. Ms. Sindelar asked USEMB-ACS on November 7, 2000 and November 9, 2000 to forward this letter to me. ACS never did. Also too, my e-mail address at that time was functioning according to my daily log. However since this case started over 5 years ago, this has been the first time I ever received any correspondence from Washington, in the form of an update. But sadly the March 1st letter had inaccuracies, like referring to a July 30, 1999 Thai court decision, but ignoring an earlier decision on December 4, 1998, which was the final Thai court decision in this case. And asking if I was attempting to appeal the July 30, 1999 decision, yet I had previously notified CI in 1999 that my attempt to appeal the December 4, 1998, was blocked by the Thai court.

BIAS IN THE THAI COURT AGAINST THE AMERICAN FATHER AND AMERICA IN GENERAL: THAI COURT JUDGEMENT DECEMBER 4, 1998 BLACK CASE 860/2538 AND RED CASE 1324/2541: In the English translation of Thai final judgement December 4, 1998, was the following statement *"But it appeared that the defendant* (the Father of the children) *had looked after the*

minors with austerity and using inappropriate method by forcing the children to comply with his unreasonable orders, not allowing the three minors to follow Thai cultures, not allowing the three minors to respect the plaintiff's parents and relatives, trying to raise the three children American style." I believe this verbiage is a euphemistic attack on Betty Crocker and no doubt the Catholic Church. I fully undertook meal preparation when the maid left. But before this, Sean, one evening, who was four at the time, turned to me and asked for a hamburger. The maid at the moment was feeding Sean the usual fried egg and rice. On the surface, innocent enough, except the maid would do this morning, noon, and night. On the weekends when I was in town, I would take my guys out to McDonald's, Burger King, or Pizza Hut. The maid was visibly angry at Sean's request. So I set up a kitchen in my office in the house, buying a freezer, microwave, convection oven, mixer, picnic table, dishes, cookware, knives, forks, and glasses. The kitchen in the house was not available most of the time. Whenever I used the stove to make fried chicken or tomato meat sauce for my children, the Thai's in the house would complain. I relied primarily on three cookbooks, Betty Crocker, the New York Times cookbook, and the Joy of Cooking. My children's favorite was meatloaf, with mashed potatoes and mushroom gravy. There were no objections from my children on what meals I prepared for them . I would experiment with their menu. I would ask them their opinion, if they didn't like a particular meal I dropped it from the menu. I would get up about 5:30 AM to start preparing my children's breakfast. Generally an omelet or egg with ham, toast, and OJ. Before meals we would generally say grace. I say generally because in the rush to feed them I would forget. I taught them the Pledge of Allegiance of the Flag of the United States, and

hung an American flag in their bedroom. Before the school bus came I would have one of them read me an English book. In the evening generally read them a bed time story. I hung a crucifix outside their bedroom door, but that was removed by one of the Thai's. I later found it and hung it up inside their room. On Sundays we would attend Mass at Holy Redeemer Catholic Church and afterwards my children would attend the CCD (Confraternity of Christian Doctrine) for instruction in their Catholic Faith. The Thai's attempted to prevent Catherine from going to Holy Redeemer for her First Holy Communion by deliberately burning leaves near the clothes line where her First Holy Communion dress was hanging to dry. Catherine already had a white dress and I washed that and hung it to dry. When I saw the fire I took the dress off the line, but it still had the odor of burnt leaves. I found a cleaner's and the dress was cleaned and the odor was removed. The wife then decided to attend Catherine's First Holy Communion with us. While walking to the Church through the parking lot with our three children she was abusive and cursing all the way. Also at the time I was building a home north of Bangkok. All the money except for the bank loan was cash flow from my company's operations. The cash from my company to build the house was 6 times greater than the bank loan. I had established a Thai corporation that conducted field contract research, mostly for FMC. The regional research director for FMC, a Canadian would fly in from time to check the progress of the work. I also conducted survey research, interviewing rice farmers. The client list for all this included besides FMC, DuPont, Rohm and Haas, Monsanto, Schering, Hoechst, Rhone Poulenc, Shell, Dow, Uniroyal, and SDS Biotech. I did the field work myself, except for transplanting the rice in the microplots, which I paid a Thai farmer to do. Field work meant working in a rice paddy with mud and water for about 8 hours a day from morning to late afternoon, through the

heat, recording insect damage assessments, or insect counts. I leased the land from a local Thai farmer, which was about 60 miles north of Bangkok. Which I commuted to every day from Bangkok while this work was going on. It would go on for months at a time. I would return back to Bangkok about 9:00 PM covered with mud. Which the Thai's would comment about, since Thai Ph.D's don't do this, they wouldn't dare do this. But a number of American Ph.D's of course do. And the next day return to the field test plots 60 miles north of Bangkok. The Thai's in the house didn't understand why an American would choose to work in a rice paddy, doing the kind of work that I did, returning back to that house dirty and sweaty, yet enjoying it. Eventually they came to resent it. Their idea of an American professional working in Bangkok was working in an air-conditioned office, with a shirt and tie, and being driven in a chauffeur driven limousine. Not some guy working in a rice paddy in shorts, a T-shirt, and tennis shoes, driving a double cab Isuzu pickup. From about September 1992 till July 6, 1995 I was primarily responsible for the care and raising of Catherine, Sean, and Michael. After completing a 760 Thai rice farmer 19 Thai province rice crop protection enduser survey on August 30, 1992. I remained at my office in Bangkok at the house where my three children were at, to summarize the data for the preparation of the final reports for the 5 multinational corporate clients. After this project was completed, I turned my attention to completing a 4 bedroom, 2 bath home north of Bangkok. In this judgement what was not stated, was that I was raising our three children as American's, which was not a problem until Aileen left Thailand in August 1992 to continue her education in North Miami, while residing with my Mother. Prior to August 1992 the mother of my three children voiced no objections. But this was not acceptable to her parents or sister. Regardless of what her parents or sister liked or disliked, was not a

consideration, since we were exercising our parent prerogatives to raise all 4 children as American's. Since that is what they were. Insofar as their Catholic religion, again the mother voiced no objections. She was present at Holy Redeemer when all four children were baptized. What her parents and sister thought was not relevant, again the parents of he children were exercising their parental prerogatives. It was after Aileen left for the US in August, on October 29, 1992 that Catherine and I were the objects of a tirade from the mother of my three children screaming for a divorce, and demanding that my three children and I leave the house. This was while I was driving her to an appointment.

BIAS IN THE THAI COURT AGAINST THE AMERICAN FATHER AND THE CHILDREN'S CATHOLIC UPBRINGING:

THAI COURT JUDGEMENT JULY 30, 1999 BLACK CASE 860/2538 RED CASE 1324/2541: On December 4, 1998 the final decision was read in the Thai court in Thai with no translator and no attorney. On January 14, 1999 I picked up a copy of this judgement. I was originally told it would be ready on December 11, 1998. On January 15, 1999 I first learn from a translation service what the judgement says, 42 days later. In this decision it stated I had visitation.

THE USE OF THE TERM MOTHER IN MR. HEGARTY'S LETTER: I assume the term mother in Mr. Hegarty's letter meant 'female parent" and not 'to care for or protect'. If it was the later definition, then apparently Children's Issues has not exactly been forthcoming in describing just what kind of mother we have out here. This 'mother' attempted to coerce her daughter Aileen's return back to Thailand from the United States at the behest of her xenophobic ethnocentric Thai parents. Aileen had found her niche thank you, and was doing quite well academically in the United States. And made it quite plain she had neither the inclination nor desire to return back to Bangkok. When this failed then 'mother' refused to cooperate with Thai immigration

Herald International Tribune
Editorial
Saturday-Sunday
July 29-30, 2000

A Father's Ordeal

There is a new glimmer of hope that Joseph Cooke may yet be able to piece his family back together. The family was shattered more than 7 years ago when his then wife, a German citizen, took their two children, then just 1 and 3 years old, to her native land and left them in the care of foster parents while she sought treatment for a mental illness.

When Mr. Cooke found out what had happened and sought to recover his children, German government agencies and courts stalled, and then told him that the foster parents would have permanent custody, since it would be too wrenching psychologically to return the children to the United States. As a result, Mr. Cooke has not seen his children in years.

Now in response to belated but strong appeals from President Bill Clinton, the German federal government seems willing to press the local authorities to correct, at partially, what can only be called a bureaucratic kidnapping. It has altered its previous indefensible position that this case---- and too many others like it—was purely the province of Germany's independent courts and therefore beyond federal reach.

Mr. Cooke will now be allowed to visit the children without risk of prosecution for nonpayment of child support, which he had refused to supply on the understandable ground that he wasn't going to subsidize the abduction of his own children. Gradually, he hopes to re-establish the bond with them that was so unfairly severed.

This is, of course, suboptimal result. He would like the children back. Alas as even he recognizes, the children have spent too much in the hands of their German foster parents to make an immediate reunion easy or even necessarily desirable. Yet the ultimate goal should be the swiftest practicable restoration of custody, if that is what Mr. Cooke, given the opportunity to see his children regularly and evaluate their best interests, wants. The U.S. government should continue to vigilantly monitor the situation and press for broader reform. The Cooke children are, sadly, not the only ones to have been caught up in a German system whose arrogance has been unconscionable.

---*THE WASHINGTON POST.*

Note: I have remained in Thailand to remain in contact with my children, and then two sons, and now three children, even though that contact has been through telephone calls or a gate. Mr. Cooke's experience made a deep impression on me, and I was determined not to be a stranger to my children.

ZANE, DARIA, 10:57 AM 11/6/02, Re: District Court Case—for l

To: "Zane, Daria"<Daria.Zane2@usdoj.gov>
From: Joseph W. Southern<southern@mozart.inet.co.th>
Subject: Re: District Court Case-for laurie weinstein
Cc:
Bcc:
Attached

Dear Ms. Zane:

I just opened my email and saw your email about the request for the enlargement of time. I have no problem with this, and hope everything is ok with Ms. Weinstein. As for me I just got out of the hospital last Friday, I was drugged in my apartment. I got my self to the ICU early Thursday morning and was out of the hospital midmorning, last Friday, 1Nov. The U.S. Embassy knows about it. It was an opiate, a gas form that came in under my door. That is about the only way the stuff could have gotten in as I was woken up not feeling well and got the full effects. I have a studio apartment, with a rollaway. It's about the closest I can get to my two sons. I am just advising you about this in the event something happens. I have been hit before with this stuff, except this time I went to the hospital as I felt I was really going down this time. Earlier attacks were through my bottled drinking water in my apartment. After I changed locks, then it stopped. Then this past January just after I arrived back to Thailand from the US I was hit again. But not through the water.

(.....)

As for the drugging thing that is from the Thai family that has my two sons. They have had this done before to me. The last time they doctored my drinking water in March 2001, was just after I faxed Colin Powell's office re: passports for my two sons.(.....)

With best regards, Joseph Southern

Note: The hospital that I went to in the early morning hours (before dawn) on October 31, 2002 was Bumrunggrad Medical Center on 33 Sukhumvit Soi 3 Nana, tel: 02-667-1000. I took a taxi (somewhat staggering). The taxi driver stopped periodically to allow me to vomit outside of his taxi. I was admitted to the ICU (Physicians: Dr. Sukitti Panpunnung and Dr. Sriprapa Hemachayati). After I had partially recovered I was taken to a hospital room. While en route in a wheelchair to the room I telephoned the U.S. Embassy and spoke to Mr. Roderick Gonzalez in the American Citizen Services about the matter. This was about midmorning of October 31, 2002. The HN number on the hospital bill is 101035551. The amount of the bill was Baht 14,006.00, of which my insurance plan covered Baht 11,506.00. The following day November 1, I felt fully recovered and asked to be discharged, and the physician concurred.

Fax

To: Mr. Roderick Gonzalez
American Citizen Services
U.S. Embassy, Thailand

From: Dr. Joseph W. Southern
1508 209 Rachada 17
Rachada Pisek Road
Bangkok 10320

Fax: 02-205-4103 **Pages:** 2

Phone: 02-205-4049 **Date:** 12/13/02

Re: See Enclosed **cc:**

☑ **Urgent**

Rod: Last night (12Dec02-Thurs) at about 11:00 PM while walking back to my apartment from a bus stop on Rachada Pisek I was struck by a van that suddenly veered onto the sidewalk knocking me on my back. I was in Soi 17 at the time. Almost about to reach my apartment building.

I was coming back after doing a stint of English teaching. Besides the bump on the back of my head, my left arm was swollen, with cuts on my elbow and the side of my arm. The bumper of the van about in the middle was dented.

I took the driver into my service apartment at reception to photocopy his driver's license or Thai ID. He said he had none.

I then called USEMB and utilized the services of the operator to talk to the guy. Eventually one police officer came into the reception area and we then went to Suttisan police station and I obtained a police report. *See enclosed.* The police lieutenant told me he fined the driver 500 bahts. I wanted the matter dropped. The driver was not drunk. With him were three

other passengers, one woman and two males passengers. One male passenger disappeared. This guy the one without the ID told me he was the driver. I have no way of corroborating that as I did not see the driver before I was hit. It's a bit fishy to me. Thank you for asking to see the report.

Note: The driver said his steering mechanism was malfunctioning and that is why he hit me. Yet when he drove me to the police station with a Thai police officer in the van on the passenger side, he had no problem steering the van.

Note: At the current exchange rate Baht 500 is $12.50.

Note: The accident report submitted with this fax to the embassy was handwritten in Thai. I signed it.

Note: This "accident" occurred four days before my departure for the United States. At the time I was preparing a Plaintiff's Opposition to Defendant's Motion to Dismiss or in the Alternative for Summary Judgment and Statement of Material Facts in Genuine Dispute and Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss or in the Alternative for Summary Judgment. These documents in all totaled 60 pages. In accordance to the order from the United States District Court for the District of Columbia, I had until December 30, 2002 to file these documents. I hand carried these documents to the United States and filed them at the district court on December 18, 2002.

Ms. Laurie J. Weins, 11:23 AM 12/13/02, HIT WITH VAN WHILE WALKING ON

To: Ms. Laurie J. Weinstein<Laurie.Weinstein2@usdoj.gov>
From Joseph W. Southern < southern@mozart.inet.co.th>
Subject: HIT WITH VAN WHILE WALKING ON A SIDEWALK, UPDATE
Cc:
Bcc:
Attached:

Ms. Weinstein:

(.....)

I did send that fax to the American Services Section at the U.S. Embassy this morning along with the Thai language police report. The guy who identified himself as the driver told the police lieutenant he had no driver's license and no Thai ID card. The name he provided to the police lieutenant may or may not be true. The Lt. just turned to me and said that his name was so and so without any corroboration.

I spoke to a Thai staff member at ACS who confirmed my suspicions that it was very strange for a Thai not to have any ID whatsoever. There was a Thai police officer who later arrived at the reception area at my apt bldg after I was hit. This guy was wearing no helmet. Plus he had no partner with him. The driver went out of my apt bldg and brought him back. I insisted on a police report. So this cop then radios the Suttisan police station and a police lieutenant arrives. The same one who takes the report in the police station.

I was driven by the van driver to the police station, along with the first cop in front on the passenger's side.

After we arrive at the police station, this cop disappears. He doesn't come into the police station. I don't know what I am facing out here. This van business is fishy.

I am arriving back into the U.S. this Monday, December 16th, along with the response to your motion. I have confirmed reservations on China Airlines. I arrive at JFK at 7:25 PM on CI 0012.

Yesterday afternoon China Airlines called. Reconfirming my departure. It was on an open line. I am telling you all this in the event I don't show up. Considering the event of October 31st and last night's. I will bring the fax and the Thai police report with me. Plus the hospital bill.

I will take a normal taxi to Bangkok's airport for this Monday. My China Airlines flight leaves Bangkok at (:00 AM. I need to check in at 7:00 AM. I will leave my apt at 5:00 AM.

With best regards, Joseph Southern

Note: I don't regard the van accident as an accident. I have a American lawyer friend in Bangkok who has resided for many years here, and when I related my "van accident" incident to him, he told me he has been hit three times, once by a truck, and didn't regard them as accidents. The van in particular was a BMTA van meaning it is licensed to pick up passengers by the Bangkok Metropolitan Transportation Administration. However these vans do not pick up passengers in the lane where I reside, as there are no van stops for passengers. I have yet to see any BMTA van using the lane where I reside. The BMTA van the evening of December 12th was the first one I have encountered in over 8 years living on this lane.

Weinstein, Laurie, 09:55 AM 12/13/02, RE: HIT WITH VAN WHILE WALKING

Original-Encoded-Information-Types: IA5-Text
UA Content-Id: RE:HIT WITH VAN
Autoforwarded: FALSE
Priority: Normal
Importance: Normal
Date: Fri, 13 Dec 2002 9:55:35-0500
From: "Weinstein, Laurie"<Laurie.Weinstein2@usdoj.gov.>
Subject: RE: HIT WITH VAN WHILE WALKING IN SIDEWALK.UPDATE
To: "Joseph W. Southern" <southern@mozart.inet.co.th>
X-Mailer: NetJunction (NetJunction 5.1. 1-p2)/MIME

Mr. Southern-
I am terribly sorry to hear about the accident and glad that you are not seriously injured. I will expect to hear from you arrive in the U.S. Travel safely.

Note: Ms. Weinstein was the AUSA representing the Secretary of State.

Note: After filing at the district court in Washington, D.C. the Plaintiff's Opposition to Defendant's Motion to Dismiss or in the Alternative for Summary Judgment and Statement of Material Facts in Genuine Dispute and Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss or in the Alternative for Summary Judgment on December 18, 2002 I met with Ms. Weinstein in her office.

Ms. Patty Kennedy, 11:38 PM 6/26/03, Another Drugging Incident at J

To: Ms. Patty Kennedy<patty_kennedy@warner.senate.gov>
From: Joseph W. Southern <southern@mozart.inet.co.th>
Subject: Another Drugging Incident at JWS
Cc:
Bcc:
Attached:

Dear Ms. Kennedy:

This morning at 3:00 AM I woke up dizzy, nauseous, sweaty, and clammy. By 10:30 AM I was ok after a morning of vomiting. I opened the sliding glass door and left the air conditioning on and aired out the apartment.

What set them off, the ex-wife and her family, was a 3 pound birthday cake for my son Michael, who turned 14 this past Saturday, June 21st.

It was a Charlie Brown cake, Charlie Brown holding a baseball glove. On the cake I had Happy 14th Birthday Michael, love Dad, Sean, Catherine, Aileen, Brenna.

I delivered the cake this past Monday at about 6:00 PM. My day off. Along with ice cream, and McDonald's meals. Michael put in 14 candles at the gate and Sean and I sang Happy Birthday to Michael. Then Catherine came out. This was the first time I saw her since her return to Thailand on May 23rd. I asked her to come to the gate and kissed her on her head and told her I missed her, and we then talked. It was pleasant chat. She left and went back into the house and I stayed and talked to my sons more and left.

Yesterday (Wednesday 25June) at 5:00 PM, I called from the school on my cell phone just before teaching a class and asked to speak to my sons. Strangely they were not in, all

three children were gone. Yet at 5:00 PM they are back from school. I then called again at 7:00 PM and Michael told me they were out playing tennis. Strange for a school day. Normally they are doing homework.

Last night when I arrived back from the school at 10:30 PM there were two Thai policemen sitting in the lobby. Not sure why. Then at 11:00 PM there was momentary blackout in the apt building. First time that happened. I am sure not connected with the drugging.

It is my belief that the ex-wife's father Snit Suwannachinda is the lead honcho on the drugging. His wife seems to be weary of it all, this situation with the children.

I want action taken with these people, like stern warnings or else. I did notify ACS. The party I spoke to had a daughter who was with friends at a movie theater and she was drugged.

I want the State Dept to be read the riot act and get the local Thai authorities to get the Suwannachinda's under control. Plus Watana Mansion and the owner to get serious about the security. The drugging only could have been done with inside help. I see no reason why I should move. Any move on my part will move me away from my children.

The Suwannachinda's need a visit from Thai Interpol and read the riot act. I personally know the head of Thai Interpol, he is Police Colonel Naras Savestanan. His Ph.D. is from Florida State in criminology.

His telephone number is 66-2-205-3924. Cell phone 66-1-373-8577. He gave me his business card.

I am not the one who should be doing the calling. If I end up dead the Foggy Bottom crew will have a PR problem.

Thank you

With best regards, Joseph Southern

Note: The last time I saw my daughter Catherine before June 23, 2003 was on August 4, 2000, the day before she left for the United States. The only contact for almost three years were telephone calls and emails.

Note: At the time I assumed the opiate gas came into my apartment under the door. The owner of the apartment building and I reviewed the security camera tape. I could not confirm from the tapes if the opiate gas was coming through the door. But to prevent it from happening again I sealed the bottom of the door on the inside with a wet towel. I later learned the gas was coming through a drain in my bathroom when cleaning the bathroom one day, when I removed a metal cap over a drain pipe and was hit again. The cap is loose to allow water to drain. I covered the pipe with plastic and rubber bands to seal it and replaced the cap. I have had no drugging problems since then. As a further precaution I have stopped using my air conditioner, but a fan instead, and leave the sliding glass door open. However that does not mean that this email of June 26, 2003 did not generate the action I requested.

Bangkok Acs Unit, 06:28 AM 9/10/02, Security Notice and Worldwide

From: Bangkok Acs Unit <Acsbkk@state.gov.>
Subject: Security Notice and Worldwide Caution September 9, 2002
Date: Tue, 10Sep 2002 06:28:48-0400
X-Mailer: Internet Mail Service (5.5.2654.89)
To: Subscribers ,<bangkok-acs-announcements@databack.com>

SECURITY NOTICE
INCREASED POLICE ACTIVITY AND DEMONSTRATIONS

Tomorrow morning, September 11, in support of the Embassy's 9/11 Ceremony, you will see increased Police and guard activity around the Embassy starting at about 0730 hrs. Effective 0800 hrs, the vehicle entrance gate at the EOB will be closed, except for VIP arrivals, until the ceremony has been completed and the area cleared of participants (approx: 10:AM

We have also been made aware of several demonstrations that may take place in the next few days.

First, the World Bank has informed us that a group of protesters, about 50 persons, will come to the bank on 9/11, to submit a letter to a Bank Representative. The group will come to the Diethelm building around 1:00 PM and stay for about for one hour.

Second, we have been informed by the Police that a group of around 50 to 100 people will demonstrate at the Embassy on 9/11 at approximately 11:00 AM. This group is demonstrating against the US concerning Iraq.

Third police have also told us about a group of Muslims that may demonstrate at the Embassy on 9/11 or 9/13. At this time little information is known about the size of the group, or its specific makeup.

Below is the U.S. Department of State's latest Worldwide Caution notice.

Note: This email was received in upper caps.

SUBJECT: PUBLIC ANNOUNCEMENT-WORLDWIDE CAUTION

THIS WORLDWIDE CAUTION SUPERSEDES THE PREVIOUS WORLDWIDE CAUTION, DUE TO EXPIRE ON OCTOBER 1, 2002, TO ALERT AMERICANS TO NEED TO REMAIN ESPECIALY VIGILANT DURING THE PERIOD OF ANNIVERSARY OF THE ATTACKS OF SEPTEMBER 11. THERE IS A CONTINUING THREAT OF TERRORIST ACTIONS, WHICH MAY TARGET CIVILIANS AND INCLUDE SUICIDE OPERATIONS. THIS WORLDWIDE CAUTION EXPIRES ON OCTOBER 31, 2002.

THE U.S. GOVERNMENT HAS CONTINUED TO RECEIVE CREDIBLE INDICATIONS THAT EXTREMIST GROUPS AND INDIVIDUALS ARE PLANNING ADDITIONAL TERRORIST ACTIONS AGAINST U.S. INTERESTS. SUCH ACTIONS MAY BE IMMINENT AND INCLUDE SUICIDE OPERATIONS. WE REMIND AMERICAN CITIZENS TO REMAIN VIGILANT WITH REGARD TO THEIR PERSONAL SAFETY AND TO EXERCISE CAUTION.

TERRORIST GROUPS DO NOT DISTINGUISH BETWEEN OFFICIAL AND CIVILIAN TARGETS.

ATACKS ON PLACES OF WORSHIP AND SCHOOLS, AND THE MURDER OF AMERICAN CITIZENS DEMONSTRATE THAT AS SECURITY IS INCREASED AT OFFICIAL U.S FACILITIES, TERRORISTS AND THEIR SYMPATHIZERS WILL SEEK SOFTER TARGETS. THESE MAY INCLUDE FACILITIES WHERE AMERICANS ARE GENERALLY KNOWN TO CONGREGATE OR VISIT, SUCH AS CLUBS, RESTAURANTS, PLACES OF WORSHIP, SCHOOLS OR OUTDOOR RECREATION EVENTS. AMERICANS SHOULD INCREASE THEIR SECURITY AWARENESS WHEN THEY ARE AT SUCH LOCATIONS, AVOID THEM, OR SWITCH TO OTHER LOCATIONS WHERE AMERICANS IN LARGE NUMBERS GENERALLY DO NOT CONGREGATE. AMERICAN CITIZENS MAY BE TARGETED FOR KIDNAPPING OR ASSASINATION.

U.S. GOVERNMENT FACILITIES WORLDWIDE REMAIN AT A HEIGHTENED STATE OF ALERT. THESE FACILITIES WORLDWIDE REMAIN AT A HEIGHTENED STATE OF ALERT. THESE FACILITIES MAY TEMPORARILY CLOSE OR SUSPEND PUBLIC SERVICES FROM TIME TO TIME TO REVIEW THEIR SECURITY POSTURE AND ENSURE ITS ADEQUACY. IN THOSE INSTANCES, U.S EMBASSIES AND CONSULATES WILL MAKE EVERY EFFORT TO PROVIDE EMERGENCY SERVICES TO AMERICAN CITIZENS. AMERICANS ARE URGED TO MONITOR LOCAL NEWS AND MAINTAIN CONTACT WITH THE NEAREST AMERICAN EMBASSY OR CONSULATE.

AS THE DEPARTMENT CONTINUES TO DEVELOP INFORMATION ON ANY POTENTIAL SECURITY THREATS TO AMERICANS OVERSEAS, IT SHARES CREDIBLE THREAT INFORMATION THROUGH ITS CONSULAR INFORMATION PROGRAM DOCUMENTS AVAILABLE ON THE INTERNET AT

HTTP://TRAVEL.STATE.GOV. IN ADDITION TO INFORMATION ON THE INTERNET, U.S. TRAVELERS MAY HEAR RECORDED INFORMATION BY CALLING THE DEPARTMENT OF STATE IN WASHINGTON, D.C. AT 202-647-5225 FROM THEIR TOUCH-TONE TELEPHONE OR RECEIVE INFORMATION BY AUTOMATED TELEFAX BY DIALING 202-647-3000.

Bangkok Acs Unit, 09:58 PM 9/12/02, Security Recommendations

From: Bangkok Acs Unit <Acsbkk@state.gov>
Subject: Security Recommendations
Date: Thus, 12Sep2002 21:58:36-0400
X-Mailer: Internet Mail Service 5.5.2654.89)
To: Subscribers <bangkok-acs-announcements@databack.com>

The recent anniversary of the tragic events of 9/11 serves a grim reminder that terrorists can strike anywhere, and at anytime. Although there is no specific threat involving U.S. interests in Thailand, it is important that you remain vigilant and alert, and report all suspicious activity to the Royal Thai Police immediately.

The following are recommended precautions that will greatly enhance your own personal safety as well as the security of the American community in general. Please share this information with your families.

1. BE ALERT! Every organized terrorist attack begins with surveillance of the intended target. This is the best time to discourage or prevent the actual attack.

A. Report any unusual person(s) loitering and/or taking notes, photographs or video around Embassy facilities, your workplace, or your home. Try to gather as much information about these individuals and the incident as possible: height, weight, hair, color, eye color, age, clothing, visible scars or other identifying characteristics, nationality, time of day, location of suspected persons(s) and a general description of their activity. NEVER attempt to confront a suspicious person.

B. Suspicious vehicles, whether or not occupied, should also be reported immediately. Attempt to gather as much

information as possible including location of the vehicle, make, model, year, license plate number, color, and a general description of the occupants, if any.

C. Report any packages, briefcases, or similar items left abandoned near Embassy facilities, your workplace, or your home. NEVER attempt to disturb any suspicious package.

D. Do not accept unexpected packages from strangers, regardless of who they claim to be or whom the package is allegedly for. Automatically be suspicious of any unexpected package received in the mail or by messenger. Be especially alert for packages that have: no return address, excessive postage, restrictive markings such as "personal" or "confidential," strange odors, greasy stains, protruding wires or foil, and poorly handwritten addresses. NEVER open a package or letter you think might contain a bomb.

2. BE PROACTIVE One of the best ways to avoid a terrorist attack is making likely targets appear difficult or impossible to attack. This approach not only applies to facilities, but also to individuals. Research indicates that criminals and terrorists would much rather attack someone who appears to be oblivious to their surroundings and generally inattentive than a person who is alert and constantly aware of he environment. Make yourself a "hard target."

A. Whenever you are traveling it is always to check your vehicle prior to driving it. Walk around your car before you start your engine and look for anything unusual that may be on or near your vehicle. Anything discovered that was not there when you parked should be considered suspicious. Examples of such items may include forgotten tools, wire clippings, tape fragments, greasy fingerprints on the hood or trunk, or tool marks. NEVER start your vehicle, or even get inside, if you discover anything suspicious.

B. Whether you are walking or driving, avoid using the same route every day you normally go. If at possible, try to vary arrival and departure times be at least one hour. Be especially cautious when on roads or in locations you have no choice but to be in. These are places an attack is most likely to occur.

C. Do not advertise your U.S. citizenship or your affiliation with U.S. organizations. Think twice about wearing clothing displaying obviously "American logos", such as U.S. Embassy or U.S. military insignia.

3. Please remember, terrorists can strike at anytime, anywhere, and when you least expect it. Do not assume that because you are in Bangkok, far from countries normally associated with terrorist activity, that you are not a target. The Royal Thai Police are available twenty-fours hours per day, seven days per week, and can be contacted either through your local police station or through the Tourist Police at 1155. Report all suspicious persons, cars, and incidents immediately to the Police. If you have concern or question about security which is not being addressed by the Royal Thai Police, please contact the Embassy's American Citizen Services Unit at 02-205-4049.

American Citizen Se, 02:06 PM 9/13/04, PUBLIC ANNOUNCEMENT-WORLDWIDE

To: southern@mozart.inet.co.th
From: American Citizen Service
Bangkok<acsbkk@state.gov>
X-MimeOLE: Produced by Microsoft Exchange V6.).6487.1
Subject: PUBLIC ANNOUNCEMENT-WORLDWIDE CAUTION
Date: Mon, 13 Sep 2004 14:06:34 +0700
X-MS-Has-Attach:
X-MS-TNEF-Correlator
Thread-Topic: Upcoming Consular Visit to Samui
Thread-Index:
AcSL2qB5cPFJrWRmSDWHqZgDOiA5GgNhSZ/A
X-OriginalArrivalTime: 13Sep 2004 07:06:35.0542 (UTC) FILETIME=[34D3C360:01C49960]
X-MIME-Autoconverted: from quoted-printable to 8bit by mh.databack.com id i8D76lw28870
X-INET-MailScanner:Found to be clean

PUBLIC ANNOUNCEMENT-WORLDWIDE CAUTION

This Public Announcement is being updated to remind U.S. citizens of the continuing threat of terrorist actions and anti-American violence against U.S. citizens and interests overseas. This supersedes the Worldwide Caution dated April 29, 2004 and expires on March 10, 2005.

The Department of State is deeply concerned about the continuing threat of terrorist attacks against U.S. citizens and interests abroad, as well as potential for demonstrations and violent actions against U.S. citizens and interests overseas. U.S. citizens are reminded that demonstrations and rioting can occur at any time. In reaction to the execution of hostages in Iraq, there have been demonstrations and associated violence in the hostages country of origin. While Americans are generally not the target in such incidents, U.S. citizens

could be caught up in the violence. U.S. citizens are reminded to maintain a high level of vigilance and to take appropriate steps to increase their security awareness.

The Department of State remains concerned by indications that al-Qaida and affiliated groups continue to prepare to strike U.S. interests abroad. Al-Qaida and its associated organizations have struck in Europe, Asia, and the Middle East. Future al Qaida attacks could possibly nonconventional weapons such as chemical or biological agents as well as conventional weapons of terror, to include explosive devices.

Terrorist actions may include, but are not limited to, suicide operations, assassinations, hijackings, bombings or kidnappings. These may involve aviation and other transportation and maritime interests. Terrorists do not distinguish between official and civilian targets. These may include facilities where U.S. citizens and other foreigners congregate or visit, including residential areas, business offices, clubs, restaurants, places of worship, schools, hotels and public areas. U.S citizens are encourages to maintain a high level of vigilance and to take appropriate steps to increase their security awareness.

U.S. Government facilities worldwide remain at a heightened state of alert. These facilities may temporarily close or suspend public services from time to time to assess their security posture. In those instances, U.S. embassies and consulates will make every effort to provide emergency services to U.S. citizens. Americans abroad are urged to monitor the local news and maintain contact with the nearest U.S. Embassy or consulate. As the Department continues to develop information on any potential security threats to U.S. citizens overseas, it shares credible threat information through its consular information program documents, available on the Internet at http://travel.state.gov.(.....

The Nation
Thailand's Independent Newspaper
Saturday, November 29, 2003

TRIAL OF JI SUSPECTS

Police witness exposes alleged terror plans of four Thai Muslims, S'porean

Kesinee Tangkhieo
THE NATION, AGENCIES

Four Thai Muslims suspected of belonging to the Jamaah Islamiyah (JI) terrorist group plotted widespread bomb attacks on embassies and tourist spots on June 6 in order to create "maximum" chaos in Thailand, a witness testified yesterday.

Special Branch officer Police Colonel Pirapong Duang-amporn suggested the country would have experienced one of its most disastrous days in modern history if the saboteurs had succeeded in setting off simultaneous car bombs at the United States, British, Australian, Israeli and Singaporean embassies and tourist areas in Phuket or Pattaya.

In eerie testimony continued from the trial's first hearing earlier this month, Pirapong, who had arrested the suspects, told the Criminal Court that the four men—along with a Singaporean, Arifin bin Ali—wanted to cause chaos on June 6.

Three suspects—Islamic religious teacher Maisuri Haji Abdullah, his son Muyahi and medical doctor Waemahadi Wae-dao—were arrested in June in Narathiwat, while the fourth, Samarn Wakaji, surrendered to authorities in early July.

Pirapong exposed the four men's alleged links with Arifin, a suspected JI ringleader, whom Thai police arrested in May and deported to authorities in Singapore.

Drawing on Arifin's documented "confessions" Pirapong said Arifin had first met the Thai suspects in 2001 while trying to establish terrorist connections within the Kingdom.

Arifin used to stay at Waemahadi's house in Narathiwat's Muang District and visited Maisuri's Islamic school, he said. Arifin and some of the Thai suspects visited Malaysia together at least twice, he added.

The plan to bomb the embassies was discussed at the Islamic school last year, Pirapong said. "At first they planned to bomb the US, British, Israeli and Singaporean embassies, but the Australian embassy was finally added to the list because Australia was helping Singapore crack down on the JI group at the time," he said.

"Dr. Waemahadi Wae-dao proposed bomb attacks in Pattaya and Phuket and Samarn was assigned to check the targets. Arifin, it was agreed, would inspect the targets in Bangkok.

Page 2A, From 1A, Evidence stacked against JI suspects

The alleged JI leader and the Thai suspects also contemplated kidnapping foreign ambassadors and businessmen in order to gain bargaining power to demand the release of JI members in Singapore, he said, adding that they would threaten to kill the hostages or actually execute them afterwards.

Pirapong was involved in the Thai police hunt for Arifin, who was arrested in May. A month later, the four Thai Muslims were arrested and charged with conspiring to endanger national security, being members of an unlawful group, and assembling to commit a crime.

The Thai suspects have denied the charges, insisting that they knew Arifin but were not aware that he was a terrorist.

Arifin mentioned only three of the suspects in regards to the alleged meeting to discus the plot, Pirapong said. The Singaporean allegedly said Muyahi did not take part in the meeting.

Pirapong quoted Arifin as saying that Waemahadi suggested adding the tourist destinations of Pattaya and Phuket to the list of targets.

The group allegedly scheduled the attacks for June because it would be the tourist high season.

Waemahadi also told Arifin that ammonium nitrate—a fertilizer ingredient that can be used to make explosives—could be easily obtained from local farmers, Pirapong said.

"Arifin suggested that Waemahadi lead the Thai branch of Jemaah Islamiyah," he said.

Samarn arranged a fake Thai ID card for Arifin at a cost of Bt35,000, he continued.

Prosecutors showed the court a notebook and a children's book as evidence that the Thais had helped Arifin to learn to read and write Thai.

Pirapong is the first of 60 witnesses scheduled to appear in the trial, which opened in September. The date for the third hearing has not been set.

The Nation
Thailand's Independent Newspaper
Wednesday, November 26, 2003

Key terrorists passing through Kingdom

Immigration records reveal some of the CIA's most-wanted have been here

Prayuth Sivayaviroj, Kavi Chongkittavorn
THE NATION

Thailand has put on its watch list the names of 220 foreigners including key international terrorists linked with al-Qaeda and Jemaah Islamiyah who have passed through the Kingdom in the past three years, intelligence sources revealed yesterday.

After recent warnings from the US of a possible new round of terrorist attacks, Thai security officials went through stacks of immigration records from 2001 to the present, isolating the names.

The names became significant when compared with most-wanted lists supplied by the US Central Intelligence Agency (CIA) and Federal Bureau of Investigation as well as other international security organizations.

The sources said that the 220 names comprised 128 al-Qaeda followers, including 45 Iraqis and 16 Iranians, 13 members of Jamaah Islamiyah, three Egyptian Islamic militants and another 21 members of other of other terrorist groups.

Thai and US intelligence officials are working closely to prevent anyone on the lists from slipping into Thailand to bomb so-called "soft" targets such as hotels, entertainment venues or offices of private companies.

The US has said that although Thailand is considered a "lesser" target of international terrorists, it is far from immune.

The intelligence sources, who requested anonymity, said this was the first time Thailand had screened incoming and outgoing persons so meticulously. All available information on foreign visitors was analyzed.

Some of those listed have used Thailand as a safe haven during their year-long campaign against soft targets around the world, the sources said, confirming that 10 terrorists with links to al-Qaeda and Jemaah Islamiyah had visited Thailand in 2001 and 2002.

The alleged terrorists who visited who visited Thailand include Kuwaiti-Canadian Mahammed Mansour Jabarah who was arrested in Canada after the September 11 events, Hassan Igbalchaudury, a Pakistani, and two Yemeni men—Abdul Karem Ahmed Al Tuwayti and Abdul Hakim Mohamed Al Kimin. All three are linked to al-Qaeda.

The sources said the rest were six alleged members of Jemaah Islamiyah from Singapore who frequented Thailand—Mas Selamat Kesteri, Ahmed Sahgi, Hassan bin Ismail, Zainal Abidin Mohamed Rashid, Ishak Mohammed Noohu, Mohamed Hassan Bin Sayaudin.

All are on CIA wanted lists, the sources said, adding that each has US$5 million (Bt200 million) bounty on his head. Thai authorities at all border checkpoints have already reinforced their procedures. The alleged terrorists came to Bangkok during 2001 and 2002, the sources said, adding that Mohammed Mansour Jabarrah was in Bangkok in January 2002 to allegedly plan for the Bali bombing. Riduan Isamuddin, better known as Hambali, also attended the

meeting. He was captured by Thai police and the CIA in August in Ayutthaya.

The intelligence sources admitted it had been difficult to monitor immigration sufficiently as most operatives used several forged passports and some crossed the porous borders without going through official entry points.

Bangkok Post December 13, 2001

WAR ON TERRORISM

[Photograph of Khalid] [Photograph of Nawaf]

Hijackers were in Bangkok

Alan Dawson

Two of the hijackers in the September 11 terrorist attacks were in Bangkok before they traveled to the United States to prepare for their suicide mission according to court documents filed in Washington.

The indictment of a French Moroccan man, Zacarias Moussaoui, outlines the movements of the 19 hijackers, Osama bin Laden and others the US government says were directly involved in the suicide attacks on New York and Washington.

US legal authorities said Khalid al Midhar and Nawaf al-Hazmi, both Saudi citizens, were in Thailand in January of last year. They flew from Bangkok to Los Angeles, where they began their fateful, final membership in the hijacking conspiracy.

On Sept 11, the two men boarded American Airlines flight 77, bound from Virginia to Los Angeles. Along with two other extremists, they hijacked the plane and crashed it into the Pentagon.

It is the first time a "Bangkok connection" has been mentioned in the investigation. The significance is still unclear, but sources said authorities were tying to determine if Khalid and Nawaf were using Thailand as a "safe haven."

That theory has gained credibility because Khalid and Nawaf flew to Malaysia in January last year for a meeting with a senior of the al-Qaeda terrorist network.

Because of the timing, some Thai and foreign sources are investigating whether the hijackers and other terrorists were using Thailand as a "safe" stopover point because of its open-door tourist policy.

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